

**January 10, 2012**

**THIRD NOTICE OF MODIFICATIONS TO TEXT OF  
PROPOSED REGULATIONS**

**Parole Violations; Detention & Revocation; General Provisions; General Rules on  
Hearings; Appeals; Special Hearings & Actions in Institutions;  
Parole Violation Process**

Pursuant to the requirements of Government Code section 11346.8 (c), and Section 44 of Title 1 of the California Code of Regulations, the California Department of Corrections & Rehabilitation (CDCR), Division of Juvenile Justice (DJJ) is providing notice of changes made to proposed regulations in the California Code of Regulations, Title 15, Division 4, and 4.5. Since the publication of the 2<sup>nd</sup> 15-Day Re-notice, the DJJ determined that additional corrections to the regulations are needed to meet clarification and consistency standards. The DJJ made no changes that we believe alter the original intent of the regulations that were originally noticed to the public.

**ADDENDUM TO INITIAL STATEMENT OF REASONS**

There was a need to make extensive edits to the Initial Statement of Reasons that was submitted and filed with the Office of Administrative Law with the Proposed Regulations. The process was not explained completely in the Initial Statement of Reasons that was submitted and in accordance with the Administrative Procedures Act requirements, more clarity is needed..

**FORMS/DOCUMENTS INCORPORATED BY REFERENCE**

The forms specified in this proposal are incorporated by reference per Section 20 (a), Title 1 of the California Code of Regulations because the documents are cumbersome, unduly expensive, and otherwise impractical to publish in the California Code of Regulations. The following forms and documents are easily accessible to all DJJ staff:

- Request for Accommodation and Assistance, DJJ 3.260 (NEW 01/09)
- Accommodation and Assistance Grievance, DJJ 3.261 (NEW 01/09)
- Notice of Parole Revocation Rights and Acknowledgement, DJJ 3.270 (REV 08/10)
- Notice of Charges, DJJ 3.274 (REV 04/09)
- Corrective Action Plan, DJJ 3.221 (REV 04/09)
- Violation Report, DJJ 3.264A (REV 09/09)
- Appeal Form, DJJ 1.316 (Rev 10/07)
- Appeal of Parole Revocation Decisions, DJJ 3.290 (NEW 10/09)
- Appeal Board Order, DJJ 1.311 (rev 11/08)
- Parole Revocation Assessment Matrix, REV 11/2008
- Revocation Extension Matrix, REV 12/2008

The 15-day comment period on these modifications shall close on January 25, 2012. All written comments must be submitted to CDCR, DJJ by facsimile (FAX) at (916) 322-5674, by email to

[sdame@cdcr.ca.gov](mailto:sdame@cdcr.ca.gov) or mail at the address below. Comments must be received by 5:00 p.m. on January 25, 2012.

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In addition to the modified text, the following documents were added to the rulemaking file and are included with this notice for review:

- Addendum to Initial Statement of Reasons
- Appeal Board Order, DJJ 1.311 (rev 11/08)
- Appeal Form, DJJ 1.316 (Rev 10/07)
- Corrective Action Plan, DJJ 3.221 (REV 04/09)
- Request for Accommodation and Assistance, DJJ 3.260 (NEW 01/09)
- Accommodation and Assistance Grievance, DJJ 3.261 (NEW 01/09)
- Violation Report, DJJ 3.264A (REV 09/09)
- Notice of Parole Revocation Rights and Acknowledgement, DJJ 3.270 (REV 08/10)
- Notice of Charges, DJJ 3.274 (REV 04/09)
- Appeal of Parole Revocation Decisions, DJJ 3.290 (NEW 10/09)
- Parole Revocation Assessment Matrix, REV 11/2008
- Revocation Extension Matrix, REV 12/2008

### **Summary of Changes**

Since the publication of the 2<sup>nd</sup> 15-Day Re-notice, the DJJ determined that additional corrections to the regulations are needed to meet clarification and consistency standards. The DJJ made no changes that we believe alter the original intent of the regulations that were originally noticed to the public.

The following inconsistencies were identified and corrected:

- Section numbers were renumbered which was not necessary and just made for confusion.
- The words/terms: Division vs. Division of Juvenile Justice; Board vs. Juvenile Parole Board; Parole vs. Division of Juvenile Parole Operations; hold vs. parole hold; facility vs. institution; and agent vs. Parole Agent were not used consistently.
- The acronyms DJJ, DJPO, JPB, CAP, RRD, and DDMS were not used consistently.
- Throughout the regulation sections, there were forms that were not identified as such or named correctly.
- There were sections that were not in the correct outline format.
- The capitalization of words/terms was inconsistent.
- There were sections that required additional language for clarity.

**Sections 4845 through 4854** were renumbered by a DJJ staff member unfamiliar with the regulatory process. The renumbering was not necessary and just made for confusion. Therefore, DJJ has changed the section numbers back to their original configuration.

**Existing Subsection 4937** was not shown in the initial proposal as repealed text. The language was modified and incorporated into new Subsection 4937.5. The DJJ has determined that it is not necessary to repeal Section 4937 and adopt 4937.5. Section 4937 is restored and modified as explained in the attached Addendum to the Initial Statement of Reasons.

**Section 4980** was originally amended to include text that defined each type of Parole Violation Hearing. The DJJ has determined that it is not necessary to define these hearings in this section as they are already defined in Section 4900. In addition, the DJJ has determined that instead of creating new Section 4980.5, the regulation text would be more appropriately placed in existing section 4980. Therefore, the DJJ has amended Section 4980 as follows:

**Section 4980 is amended** to read: 4980. Rules for Parole Violation Hearings.

**New Subsections 4980(a) through (e) are repealed.**

**New Subsection 4980(f) is combined** with new Subsection 4980(m).

The DJJ has amended all of the regulation sections to be consistent with the use of each of the words/terms as follows:

In July 2005, Section 1710(a) of the W&I Code abolished the Youth and Adult Correctional Agency. The same provision then created the California Department of Corrections and Rehabilitation (CDCR), consisting of the Division of Adult Operations, Division of Adult Programs, Division of Juvenile Justice, Corrections Standards of Authority, Board of Parole Hearings, State Commission on Juvenile Justice, Prison Industry, and the Prison Industry Board. Therefore, in each instance where the word “Division” occurs, the DJJ has replaced it with “Division of Juvenile Justice.”

Title 15, Subsection 4004(a) defines “Board” as the Youthful Offender Parole Board. In July 2005, Section 1710(a) of the W&I Code abolished the Youthful Offender Parole Board and then created the Juvenile Parole Board. Therefore, in each instance where the word “Board” occurs, the DJJ has replaced it with “Juvenile Parole Board.”

Within the DJJ there exists the Division of Juvenile Parole Operations. In each instance where the word “Parole” was used and clearly indicates the language is referring to the Division of Juvenile Parole Operations, the word “Parole” has been replaced with the “Division of Juvenile Parole Operations.”

Title 15, new Subsection 4900(24) defines the term “Parole Hold.” All of the regulation sections included in this filing are specific to parole. For the purposes of these regulations, DJJ does not identify or use any other type of “hold.” However, other outside agencies and law enforcement can place a hold on a youth. Therefore, where appropriate, the DJJ has also included the word “parole” for better clarity.

The DJJ no longer identifies where youth under DJJ's jurisdiction are housed as institutions. Therefore, "institution" has been replaced with "facility."

Title 15, Subsection 4004(n) defines "Parole Agent." The DJJ finds no distinction between an agent and a Parole Agent. Therefore, in all instances where the word "agent" occurs, the DJJ has replaced it with "Parole Agent."

The DJJ has amended the regulations to replace the acronyms with the appropriate terms as follows:

"DJJ" has been replaced with "Division of Juvenile Justice," "DJPO" has been replaced with "Division of Juvenile Parole Operations," "JPB" has been replaced with "Juvenile Parole Board," "CAP" has been replaced with "Corrective Action Plan," "RRD" has been replaced with "Revocation Release Date," and "DDMS" has been replaced with "Disciplinary Decision Making System."

The DJJ made the following changes to address the forms that were not identified as such or named correctly and has included form numbers and revision dates:

**Subsection 4852(a) is amended** to include "incorporated by reference" as required by Title 1, Article 2, Section 20 of the Government Code (GC).

**Subsection 4852(b) is amended** to identify "Violation reports" as the "Violation Report, DJJ 3.264A (REV 09/09)" and include the text "incorporated by reference" as required by Title 1, Article 2, Section 20 of the GC.

**New Subsection 4852 (c) is amended** to identify the revocation matrix as the "Parole Revocation Assessment Matrix, REV 11/2008, and include the text "incorporated by reference" as required by Title 1, Article 2, Section 20 of the GC.

**New Subsection 4852(e) is amended** to identify the "Corrective Action Plan" as "DJJ 3.221 (REV 04/09)" and include the text "incorporated by reference" as required by Title 1, Article 2, Section 20 of the GC.

**New Subsection 4853(b) and (c) are amended** to include the form numbers and revision dates for each form.

**New Subsection 4853 (l) is amended** to include the revision date and include the text "incorporated by reference" as required by Title 1, Article 2, Section 20 of the GC.

**New Subsection 4900(5) is amended** to identify the "Corrective Action Plan" as "DJJ 3.221 (REV 04/09)." In addition, the text "incorporated by reference" was included as required by Title 1, Article 2, Section 20 of the GC.

**New Subsection 4900 (b) (22) is amended** to identify the "Notice of Charges" as "DJJ 3.274 (REV 04/10,)" and include the text "incorporated by reference" as required by Title 1, Article 2, Section 20 of the GC.

**New Subsection 4900(23) is amended** to identify the “Notice of Conditions of Parole” as “DJJ 3.207 (REV 04/10),” and include the text “incorporated by reference” as required by Title 1, Article 2, Section 20 of the GC.

**New Subsection 4900(24) is amended** to identify the “Notice of Rights” as form “Notice of Revocation Rights and Acknowledgement, DJJ 3.270 (REV 08/10),” and include the text “incorporated by reference” as required by Title 1, Article 2, Section 20 of the GC.

**Existing Section 4935 is amended** to identify which forms are used and replace the word “forms” with “an Appeal Form, DJJ 1.316 (Rev 10/07) for appealing non-revocation related issues or an Appeal of Parole Revocation Decisions, DJJ 3.290 (NEW 10/09) for revocation related issues, and include the text “incorporated by reference” as required by Title 1, Article 2, Section 20 of the GC.

**New Subsection 4939.5(a)(3) is amended** to identify the “Appeal Board Order” as “DJJ 1.311 (Rev 11/08),” and include the text “incorporated by reference” as required by Title 1, Article 2, Section 20 of the GC.

**Existing Subsection 4940(a) is amended** to identify the “Appeal Board Order” as “DJJ 1.311 (Rev 11/08).”

**New Subsection 4982 (b) is amended** to identify the “Corrective Action Plan” as “DJJ 3.221 (REV 04/09).”

**New Subsections 4983 (c) (3) and 4983.5 (a) are amended** to identify the matrix as the “Parole Revocation Assessment Matrix, REV 11/2008, or the Revocation Extension Matrix, REV 12/2008 and include the text “incorporated by reference” as required by Title 1, Article 2, Section 20 of the GC.

The DJJ made changes to the following sections to address the correct outline format: Subsection 4900 (b) (8), Subsection 4900 (b) (43); Subsections 4977(b)(1) through (12); Subsections 4977.5(a) through (c); Subsection 4977.6(a); and Subsections 4977.7(c) through (e).

The DJJ made changes throughout the regulations to correct capitalization of words/terms where appropriate.

The DJJ made the following changes throughout the regulations for better clarity:

**Existing Section 4845 is amended** to include definitions of terms pertaining to parole violations, detention and revocation. These definitions were included in the original proposed regulation language under Division 4.5, specifically Section 4900(b). However, these definitions did not apply to Division 4.0 but are used throughout Article 5. Therefore it is necessary to adopt specific definitions from Section 4900(b) in Division 4.0, Section 4845(a) for consistency within both Divisions.

**Existing Section 4848.5 is amended** to change “of” to “for.”

**Existing Section 4850 is amended** to include “there are” after the word “assuming.”

**New Subsections 4853 (a) and 4982 (b) (3) are amended** to delete “which the Parole Agent and Unit Supervisor deem serious or reportable” and add “that is exacerbated by repetition, severity and/or relation to the youth’s original commitment offense” for better clarity. The L.H. Stipulated Permanent Injunction does not preclude the Division of Juvenile Justice from referring a parolee for parole revocation when a parolee’s violation is a Level 1 or 2 behavior. The previous language left too much up to interpretation. The Division of Juvenile Justice believes that when a parolee repeatedly commits the same violation, or the severity of the violation increases or the parolee commits a violation directly related to the original commitment, the Level 1 or Level 2 violation constitutes a referral to the Juvenile Parole Board.

**New Subsection 4853(g) is amended** to include “revocation” between the words “initial packet.”

**New Subsection 4853(h) is amended** to include “Revocation” in front of the words “Hearing” and replace “at a reasonable time prior” with “48 hours prior.” The “at a reasonable time” leaves too much up to interpretation. The L. H. Stipulated Permanent Injunction requires that any additional evidence or documents be provided to the parolee’s counsel 48 hours prior to the Revocation Hearing. The Division of Juvenile Justice believes that this would also include supplemental charges.

**New Subsections 4853 (i) and 4854 (e) are amended** to delete the term “hearing officer guidelines.” This term is vague and does not pertain to just one document. Guidelines for hearings are contained within the regulations. Therefore, this term is not necessary and is deleted.

**New Subsection 4854 (f) is amended** to include “her” after “his” for consistency.

**New Subsection 4854(j) is amended** to replace “4977, 4977.6, 4977.7, 4979, 4980(d), 4980.5, and 4983.5) with “sections 4977 through 4983.5.”

**New Subsection 4900(b)(2) is amended** to delete the words “Division of” from “Division of Juvenile Parole Board” as the DJJ does not refer to the Juvenile Parole Board as a Division.

**New Subsection 4900(b)(12) is amended** to correct the title “Adult Division” to “Division of Adult Operations.”

**New Subsection 4900(b)(14) is restored** as the term “Exit Interview” is mentioned in Subsection 4977.7(e)(7).

**New Subsection 4900(b)(35) is amended** to replace “termed” with “referred to as.”

**New Subsection 4900(b)(38) is amended** to change “his or her” to “his/her.”

**New Subsection 4936 (e) is amended** to replace “a Juvenile Parole Board Policy” with “any of the provisions contained in Division 4.0, Chapter 4, Article 5 and Division 4.5 of Title 15, California Code of Regulations. All rules governing the appeal process are being adopted in this proposed action.

**Existing Section 4939 is amended** to repeal “Appeal bodies may take action as follows:” as this text is redundant and should have been shown as repealed in the initial proposal; and is amended to restore the Note as follows: Note: Authority cited: Section ~~4722~~—1719, Welfare and Institutions Code. Reference: Sections ~~4724~~ 1723 and 1725, Welfare and Institutions Code.

**New Subsection 4939.5(a)** was amended to replace “policy” with “Section 4938.” Provisions for scheduling hearings are included in Section 4938. The regulation language is amended to reflect this information.

**New Subsection 4961.1 (a) is amended** to delete “(DDMS) policy for youth” and “This applies to Levels 1 through 3 of the Disciplinary Decision Making System that do not extend.” This Subsection refers to Sections 4630 through 4654 and is sufficient. The additional language is not necessary and is therefore deleted for simplicity.

**New Subsection 4977 (a) is repealed.** This language is redundant and is included in Subsection (b) (4).

**Subsections 4977.7(c)(2), 4978(c)(3), and 4981(d)** were amended to include “there are” after the word “assuming.”

**New Subsections 4977 (b) (8) and 4977.5 (b) (7) are amended** to replace “below” with “in Section 4977.6.”

**New Subsection 4977.7 (a) is amended** to replace “below” with “within this section.”

**New Subsection 4978(d)(1) is amended** to replace the word “may” with “can.”

**New Subsection 4980(f) is amended** to replace the word “For” with “During.”

**New Subsection 4981(a)(2) is amended** to add the word “by” between the words “established the.”

**Existing Subsection 4981(b)(1) is amended** to change “him” to “him/her” for consistency.

## **Proposed Regulation Text**

In the Initial Proposed Regulation text, new text was indicated with underline and deleted text was indicated with ~~striketrough~~

During the First 15-Day Notice of Modified Text, new or reinstated text was shown with double underline and additional deletions were indicated with ~~double striketrough~~.

During the Second 15-Day Notice of Modified Text, new or re-instated text was indicated with **bold double underline** and additional deletions were indicated in ~~**bold double striketrough**~~.

In this Final 15-Day Notice of Modified Text, new or re-instated text is indicated with *italic double underlined* and additional deletions are indicated with ~~*italic double striketrough*~~.

Only those comments relating directly to the modifications indicated by *italic double underlined* and additional deletions are indicated with ~~*italic double striketrough*~~ will be considered.

## **Article 5. Parole Violation, Detention, and Revocation**

### **§ 4845. *Introduction.* ~~*Purpose of Search.*~~**

*(a) Definitions. For the purpose of the regulations contained in this article, the following words shall have the following meanings:*

*(1) Charges. Behaviors and corresponding codes describing the alleged violation(s) of parole conditions.*

*(2) Corrective Action Plan, DJJ 3.221 (REV 04/09) incorporated by reference. A treatment and supervision sanction in the community developed at the parole field unit level, imposed upon parolees in response to parole violations as an alternative to revocation for which detention is not warranted.*

*(3) Date of Discovery. The date that the Division of Juvenile Justice obtains knowledge that an alleged violation of parole has occurred.*

*(4) Detention Criteria. Factors or behavior(s) that may demonstrate a need for detention:*

*(A) Parolee is a danger to himself/herself;*

*(B) Parolee is a danger to the person or property of another;*

*(C) Parolee is a risk to abscond from parole supervision; or*

*(D) Parolee's mental state has deteriorated to the point where it is likely that there is a threat to public safety.*

*(5) Disability. A physical or mental impairment that substantially limits one or more of the major life activities of an individual; a record of such impairment or condition; or being regarded as having such an impairment or condition.*

*(6) Effective Communication. Communication with persons with disabilities or those with limited English skills and reading ability that is as effective as communication with others. Effective communication may require the use of an appropriate auxiliary aid or service, or may be*



achieved by methods such as speaking clearly or using simple language and soliciting feedback to ensure understanding.

(7) Good Cause. Justifiable, legitimate, and unforeseeable reason for the delay, asserted in good faith and caused by factors that are beyond the control of the Division of Juvenile Parole Operations, the Juvenile Parole Board, or the Division of Juvenile Justice.

(8) Not-In-Custody. A parolee who is not on a Division of Juvenile Justice parole hold.

(9) Notice of Charges, DJJ 3.274 (REV 04/09), incorporated by reference. An official action conducted by Division of Juvenile Justice staff to personally serve a parolee notice of the charges against him/her including a short factual summary of the charged conduct.

(10) Notice of Parole Revocation Rights and Acknowledgement, DJJ 3.270 (REV 08/10), incorporated by reference. An advisement to a parolee of his/her procedural and due process rights in parole revocation proceedings.

(11) Parole Hold. Any invocation by the Division of Juvenile Justice of their authority to involuntarily detain a parolee for revocation proceedings and/or commence revocation proceedings pursuant to Welfare & Institutions Code §1767.3. This term shall not apply to the detention of a parolee who has absconded from the State of California until he or she is physically returned to the State of California and is in custody.

(12) Parole Violator. A parolee who violated a condition of parole, and who has been revoked and returned to custody.

(13) Probable Cause Hearing. A hearing in which the juvenile parolee appears and at which it is determined whether there is probable cause to believe that the juvenile parolee has violated a condition of parole and, if so, whether the juvenile parolee should be detained during the revocation process.

(14) Reasonable Accommodation. A modification or adjustment that will help provide equal access to programs, activities and services for parolees with disabilities or effective communication needs.

(15) Revocation Extension Hearing. The two-phase hearing (evidentiary and disposition) in which a parole violator appears before the Juvenile Parole Board, at which it is determined whether the preponderance of the evidence shows that the parole violator committed Willful Program Failure or Serious In-Custody Misconduct, and in which the parole violator's parole revocation period may be extended. A parole violator's parole revocation period may not be extended because of the Division of Juvenile Justice's failure to provide a recommended program at all or in a timely manner.

(16) Revocation Extension Probable Cause Hearing. A hearing in which the parole violator appears and at which it is determined whether there is probable cause to believe that the parole violator committed either Serious In-Custody Misconduct or Willful Program Failure.

(17) Revocation Hearing. A two-phase hearing (evidentiary and disposition) at which it is determined whether the preponderance of the evidence shows that a parolee violated a condition of parole and whether the parolee should be returned to parole supervision or remanded to custody.

(18) Revocation Proceeding/Revocation Process. All stages of the process by which a parolee/parole violator may be returned to or retained in custody following an alleged parole

violation up to and including the revocation or revocation extension hearing and any administrative appeal. In the case of alleged parole violators who are not in custody, the revocation process begins when the parolee is notified of the pending charges and of his/her rights.

(19) Revocation Release Date. The date in which a parole violator will be released to the community.

(20) Serious In-Custody Misconduct. In-Custody behavior by a parole violator that poses an immediate and serious threat to the safety and security of youth, staff or property within the facility.

(21) Violation Levels.

(A) Level 1: Minor violations of parole for which detention may not be warranted.

(B) Level 2: Selected minor law violations, moderate technical violations, or repetitive Level 1 behavior for which detention may not be warranted.

(C) Level 3: Any behavior that the Division of Juvenile Parole Operations believes represents a risk or threat to public safety. Level 3 violations are mandatory referrals to the Juvenile Parole Board.

(22) Willful Program Failure. Repeated and intentional refusal to attend and/or participate in a treatment and training program. The repeated refusal shall be documented by treatment staff. Staff shall specify the dates of non-participation and shall include information demonstrating that the parole violator does not have a mental or physical impairment that prevents him/her from fully participating in the program. A parole violator shall not be charged with willful program failure when program unavailability, facility lockdown, instructor absence or other circumstances beyond the parole violator's control prevent him/her from completing the program prior to the expiration of his/her revocation term.

Note: Authority cited: Sections 1712 ~~1711.3~~ and 1751, Welfare and Institutions Code.  
Reference: Sections ~~1711.3 and~~ 1752, Welfare and Institutions Code.

#### **§ 4846. Purposes of Search. ~~Guidelines for Search.~~**

A Parole Agent, or any peace officer designated by a Division of Juvenile Justice Youth Authority Parole Agent for a specific purpose, may search the person, property or residence of a parolee ward as a necessary adjunct to parole supervision and surveillance. The purposes of such searches are to:

- (a) Discover evidence of a law or parole violation.
- (b) Assure that evidence indicating a law or parole violation is not destroyed.
- (c) Assure that no dangerous weapon is possessed by a parolee ward arrested by the Parole Agent or peace officer.

Note: Authority cited: Section 1712, Welfare and Institutions Code. Reference: Sections 1752 and 1766, Welfare and Institutions Code; and Section 830.5, Penal Code.

**§ 4847. Guidelines for Search. ~~Search of Premises~~**

(a) Searches shall be conducted pursuant to a Parole Agent having reasonable cause to believe that evidence indicating a law or parole violation will be disclosed.

(b) A request from another agency or person to search a parolee ward or his/her premises shall include supportive evidence or information to constitute reasonable cause for a Parole Agent's search.

(c) Lawful searches that would otherwise violate any policies as prescribed in Sections ~~4845~~ 4846 through 4848 ~~4847~~ may be conducted under unusual circumstances upon approval of the Supervising Parole Agent.

Note: Authority cited: Section 1712, Welfare and Institutions Code. Reference: Sections 1752 and 1766, Welfare and Institutions Code; and Section 830.5, Penal Code.

**§ 4848. Search of Premises. ~~Warrants of Arrest/Detention~~**

(a) A search of a parolee's ward's premises shall be conducted without use of force and in the parolee's ward's presence.

(b) Notwithstanding the provisions of subsection (a), a Parole Agent may search a parolee's ward's premises without his presence when the Parole Agent has reasonable cause to believe that the parolee ward has a firearm or other deadly weapons at his/her premises ~~or~~ and the Parole Agent believes that:

(1) It will be dangerous to conduct a search in the parolee's ward's presence, or

(2) Failure to search or delay of search will endanger public safety.

Note: Authority cited: Section 1712, Welfare and Institutions Code. Reference: Sections 1752 and 1766, Welfare and Institutions Code; and Section 830.5, Penal Code.

**§ 4848.5. Warrants of Arrest/Detention. ~~Arrest/Detention of a Parolee.~~**

A warrant of arrest shall be used to secure the arrest and/or detention for a parolee wanted or detained by the Division of Juvenile Justice ~~Department~~.

(a) A warrant shall not be valid beyond the age at which a parolee's ward's commitment terminates by law.

(b) In those cases where a parolee ward has an expiration date fixed by offense, that date may be extended by the length of time the parolee ward is missing from supervision.

Note: Authority cited: Section 1712, Welfare and Institutions Code. Reference: Section s 1767.3 and 1766, Welfare and Institutions Code; and Section 830.5 ~~and~~ 836, Penal Code.

**§ 4849. Arrest/Detention of a Parolee. ~~Detention of a Parolee~~**

The criteria to warrant detention of a parolee are outlined in Section 4978.

Note: Authority cited: Section ~~1712s1711.3 and 1751~~, Welfare and Institutions Code. Reference: Sections ~~1711.3~~, 1752, 1766, and 1767.3, Welfare and Institutions Code; and Sections 830.5, 833, and 836, Penal Code.

**§ 4850. Detention of a Parolee. ~~Missing Parolees~~**

Following arrest, a parolee may be subject to continued detention without bail ~~at the initiation of parole staff pending a~~ Juvenile Parole Board hearing whereupon there is a proper showing that detention criteria are met. Such detention shall be in accordance with the criteria and time constraints set forth in Section 4978. If the Juvenile Parole Board orders that the parolee not be further detained, the Division of Juvenile Justice Department's parole hold must be withdrawn and, assuming there are no other holds ~~within 24 hours, the~~ parolee released as soon as possible, but no later than three (3) business days from the date of the order or as specified by the Board.

Note: Authority cited: Section 1712, Welfare and Institutions Code. Reference: Sections 1752, 1766 and 1767.3, Welfare and Institutions Code.

**§ 4852. Parole Violation.**

A violation of any condition of parole shall be established by the Juvenile Parole Board in accordance with the provisions of Section 4982.

(a) Prior to discussing a possible violation of any condition of parole with a parolee, the ~~"Notice to Parolee Awaiting Violation Action",~~ Notice of Parole Revocation Rights and Acknowledgement, DJJ 3.270 (REV 08/10), forms for Notice of Charges, DJJ 3.274 (REV 04/09), and Request for Accommodation and Assistance, DJJ 3.260 (NEW 01/09), and Accommodation and Assistance Grievance, DJJ 3.261 (NEW 01/09) forms, incorporated by reference, shall be served and explained to the parolee.

(b) Parole staff shall prepare reports for Juvenile Parole Board review when parole violation reporting criteria set forth in Section 4982 are met. Reports shall be submitted to the Juvenile Parole Board for review within seven (7) business days from the date of the Division of Juvenile Justice parole hold, or in the case of Not-In-Custody violation reports, within 20 business days of the notice of rights and charges. The Violation Reports, DJJ 3.264A (REV 09/09), incorporated by reference, shall contain: available for Board review within time constraints fixed by the Board and contain, when appropriate:

(1) ~~The condition(s) of parole allegedly violated charges.~~

(2) A summary of the alleged facts including the parolee's version, if any. (3) The evidence and sources of evidence relied on.

~~(4) The parolee's version of the alleged facts. Parole staff shall advise a ward being interviewed that his statement may be used by the Board in making decisions about his liberty,~~

~~(45) Recommendations concerning the parolee's immediate and future liberty.~~

(c) ~~A Juvenile P~~parolee may be returned to custody for up to one (1) year for a parole violation consistent with the Parole Revocation Assessment Matrix, REV 11/2008, incorporated by reference, established by the Juvenile Parole Board.

(d) Parole violations that consist of Level I or Level II behaviors may be resolved by the Parole Agent and Supervising Parole Agent at the field unit level without requiring final approval by the Juvenile Parole Board.

(e) If a ~~Juvenile P~~parolee rejects a Corrective Action Plan, DJJ 3.221 (REV 04/09), recommendation made in response to a Level I or Level II violation, the case will be handled through the ~~P~~parole ~~R~~evocation ~~P~~rocess using the date the parolee rejected the Corrective Action Plan, DJJ 3.221 (REV 04/09), as the date of discovery.

Note: Authority cited: Section ~~1712s~~ 1711.3 and 1751, Welfare and Institutions Code.  
Reference: Sections 1711.3, 1752, 1766 and 1767.3, Welfare and Institutions Code.

### **§ 4853. Parole Revocation.**

(a) Parole Revocation shall address Level III parolee behavior which parole staff are required to report to the Juvenile Parole Board, including serious technical and/or law violations, and/or any Level I or Level II behavior that is exacerbated by repetition, severity and/or relation to the youth's original commitment offense.

(b) If a ~~Juvenile P~~parolee is not in custody, no later than ten (10) business days after the date of discovery, the ~~Parolee shall be served with an actual notice of the alleged parole violation, including a short factual summary of the charged conduct~~ Notice of Parole Revocation Rights and Acknowledgement, DJJ 3.270 (REV 08/10), Notice of Charges, DJJ 3.274 (REV 04/09), a Request for Accommodation and Assistance, DJJ 3.260 (NEW 01/09), and Accommodation and Assistance Grievance, DJJ 3.261 (NEW 01/09) forms shall be served and explained to the parolee.

(c) If a ~~Juvenile P~~parolee remains in custody, no later than three (3) business days after the placement of the ~~P~~parole ~~H~~old, the ~~Parolee shall be served with an actual notice of the alleged parole violation, including a short factual summary of the charged conduct~~ Notice of Parole Revocation Rights and Acknowledgement, DJJ 3.270 (REV 08/10), Notice of Charges, DJJ 3.274 (REV 04/09), a Request for Accommodation and Assistance, DJJ 3.260 (NEW 01/09), and Accommodation and Assistance Grievance, DJJ 3.261 (NEW 01/09) forms shall be served and explained to the parolee.

(d) For rights and procedures governing ~~R~~evocation proceedings, see Sections 4977 through 4983.5.

(e) All charges arising from the conduct for which a ~~Juvenile P~~parolee was taken into custody shall be adjudicated at the final Revocation Hearing within thirty-five (35) calendar days from the placement of the ~~P~~parole ~~H~~old absent good cause. Charges may not be split going beyond thirty-five (35) days in the absence of good cause.

(f) If chargeable behavior known to the Division of Juvenile Parole Operations prior to notice being served on the ~~P~~parolee is not included in the initial notice of charges, such conduct cannot serve as the basis for subsequent charges.

(g) If chargeable behavior is discovered after the ~~N~~notice of ~~R~~ights, but before the revocation packet has been submitted to the Juvenile Parole Board, the parolee can be served on the new charges, and the new charges incorporated into the initial revocation packet.

(h) Any supplemental charges must be based on conduct that occurs or is discovered by the Division of Juvenile Parole Operations after the parole hold, but before the Revocation Hearing. These supplemental charges must be raised 48 hours prior ~~at a reasonable time prior~~ to the Revocation Hearing.

(i) The parole revocation term imposed by the Juvenile Parole Board may not exceed 12 months and must be consistent with the Parole Revocation Assessment Matrix, REV 11/2008 and hearing officer guidelines. A Juvenile Parolee's revocation period can only be extended through the ~~Revocation Extension~~ process as described in Section 4854.

(j) The Juvenile Parole Board shall track the timeliness of the ~~Revocation~~ process and reasons proffered for any delays.

(k) Timely and reasonable accommodations for effective communication and meaningful participation shall be provided to parolees at all parole revocation proceedings. This includes accommodations for parolees with limited English skills, effective communication needs, and/or disabilities. ~~All Parole Revocation Hearings shall be accessible to and usable by individuals with disabilities.~~

(l) Parolees charged with Serious In-Custody Misconduct involving violence against a person that occurs while the parolee is in custody pending ~~Revocation~~ proceedings may be assessed ~~additional time. If a preponderance of the evidence shows that a Parolee committed such misconduct, the Parolee may be returned for up to one~~ an additional 12 months ~~in addition to his/her revocation term~~ **based upon relevant assessments as provided in the Revocation Extension Matrix, REV 12/2008, incorporated by reference.**

Note: Authority cited: Section ~~1712 s 1711.3 and 1751~~, Welfare and Institutions Code. Reference: Sections ~~1711.3, 1752, 1766 and 1767.3~~, Welfare and Institutions Code; and Section 830.5, Penal Code.

#### **§ 4854. Parole Revocation Extension Process.**

(a) A parole violator who commits an act of Serious In-Custody Misconduct or Willful Program Failure while in revoked status is subject to ~~Revocation Extension Proceedings~~.

(b) ~~Revocation Extension Proceedings~~ will take place if qualifying misconduct occurs while the parole violator is in a local county facility, state prison, Division of Juvenile Justice ~~(DJJ)~~ facility or other detention facility.

(c) The Division of Juvenile Parole Operations shall be responsible for the ~~Revocation Extension~~ process for those parole violators under the jurisdiction of the Division *of Juvenile Justice* and housed in non-*Division of Juvenile Justice* facilities.

(d) The Division of Juvenile Facilities shall be responsible for the revocation extension process for parole violators housed in *Division of Juvenile Justice* facilities.

(e) If the Juvenile Parole Board sustains revocation extension charges, the period of revocation may be extended up to twelve (12) months from the current Revocation Release Date ~~(RRD)~~, based on relevant assessments as provided in the Revocation Extension Matrix, ~~and hearing officer guidelines~~ *REV 12/2008*.

(f) The Juvenile Parole Board may extend a Juvenile Parolee's revocation period only after appointment of an attorney, a Probable Cause Hearing, and if the case is not resolved at this stage, a Revocation Extension Hearing, which shall take place before a Juvenile Parole Board ~~Hearing Officer~~. Unless the parole violator waives or seeks continuance of a timely Revocation Extension Hearing, such a hearing shall take place at



the earliest practical time after the alleged conduct that is grounds for the charge and no later than thirty-five (35) calendar days after the parole violator is served with notice of his/her charges and rights.

(g) A parole violator's parole revocation period may not be extended because of the ~~Juvenile Parole Board's~~ *Division of Juvenile Justice*'s failure to provide a recommended program at all or in a timely manner.

(h) In the event that the alleged conduct that is grounds for the charge occurs within thirty (30) ~~calendar~~ days prior to the parole violator's Revocation Release Date, the Revocation Extension Hearing must occur at the earliest practical time after the alleged conduct, but, in any event, no later than thirty-five (35) ~~calendar~~ days after his/her Revocation Release Date, absent good cause for going beyond that time.

(i) A parole violator may only be charged with one act of Serious In-Custody Misconduct or Willful Program Failure for each revocation extension referral. However, the parole violator may be subject to additional revocation extension actions for future incidents of Serious In-Custody Misconduct or Willful Program Failure.

(j) For rights and procedures governing the ~~Revocation Extension~~ process, see sections 4977, ~~4977.6, 4977.7, 4979, 4980, 4980(d), 4980.5 and~~ *through* 4983.5.

(k) The Juvenile Parole Board shall track the timeliness of ~~Revocation Extension~~ proceedings and reasons proffered for any delays.

Note: Authority cited: Section 1751, Welfare and Institutions Code. Reference: Sections 1752, 1766 and 1767.3, Welfare and Institutions Code.

#### **§ 4900. Rules of Construction and Definitions.**

(a) (Reserved)(b) Definitions. For the purpose of the regulations contained in this chapter the following words shall have the following meanings:

~~(1) (Reserved)~~

(12) Annual Good Cause Review. Re-examination of individual ~~ward-parolee~~ cases by the *Juvenile Parole* Board which is held at intervals not exceeding one year for the purpose of determining whether existing orders and dispositions should be modified or continued in force.

~~(3) Board Hearing Coordinator. A Board employee who arranges and coordinates rescission, probable cause/detention, violation and disposition hearings.~~

(2) Board Coordinating Parole Agent. Juvenile Parole Board agent responsible for coordination and facilitation of parole ~~violation hearings~~ revocation proceedings, ensuring coordination and communication with counsel and witnesses, assisting with the provision of necessary accommodations and effective communication for parolees, and providing security at parole ~~violation hearings~~ revocation proceedings.

~~(43) Board Panel. A *Juvenile Parole* Board panel is comprised of two qualified hearing officers. A quorum for a Board panel shall be two qualified hearing officers.~~

(4) Charges. Behaviors and corresponding codes describing the alleged violation(s) of parole conditions.

~~(5) Detention Hearing. A Board hearing to determine whether or not to detain a parolee who is undergoing violation action.~~

(5) Corrective Action Plan. *DJJ 3.221 (REV 04/09), incorporated by reference.* A treatment and supervision sanction in the community developed at the parole field unit level, imposed upon parolees in response to parole violations as an alternative to revocation for which detention is not warranted.

~~(6) Director's Representative. Any qualified employee of the Department designated by the Director.~~

(6) Date of Discovery. The date that the Division of Juvenile Justice obtains knowledge that an alleged violation of parole has occurred, unless otherwise defined.

~~(7) Disposition Hearing. A Board hearing to determine whether or not to revoke the parole of a ward.~~

(7) Day(s). Calendar days, unless otherwise specified.

(8) Detention Criteria. Factors or behavior(s) that may demonstrate a need for detention:

(A) Parolee is a danger to himself/herself;

(B) Parolee is a danger to the person or property of another;

(C) Parolee is a risk to abscond from parole supervision; or

(D) Parolee's mental state has deteriorated to the point where it is likely that there is a threat to public safety.

~~(12) Detention Section. A section of the Violation Report form, DJJ 3.264B (Rev. 9/09) summarizing reasons why the parolee meets the detention criteria.~~

(9) Disability. A physical or mental impairment that substantially limits one or more of the major life activities of an individual; a record of such impairment or condition; or being regarded as having such an impairment or condition.

~~(10) Disciplinary Decision Making System. The Division of Juvenile Justice facility disciplinary system which has the ability to impose a sanction, deprive a youth of something possessed, or deny something which a youth reasonably expects as part of his/her prescribed program because the youth commits an institutional rule or law violation.~~

~~(11) Dismissal. Action required if there is insufficient evidence to support a probable cause finding at the Probable Cause Hearing, if there is insufficient admissible evidence to make a finding of good cause by a preponderance of the evidence at the Revocation Hearing or Revocation Extension Hearing, or in the interest of justice.~~

~~(12) Dual Commitment. A person who is under the jurisdiction of both the Division of Juvenile Justice and the adult division~~ Division of Adult Operations ~~of the California Department of Corrections and Rehabilitation.~~

~~(13) Effective Communication. Communication with persons with disabilities or those with limited English skills and reading ability that is as effective as communication with others. Effective communication may require the use of an appropriate auxiliary aid or~~



service, or may be achieved by methods such as speaking clearly or using simple language and soliciting feedback to ensure understanding.

~~(14) Exit Interview. A meeting with a parole violator and a hearing officer of the Juvenile Parole Board prior to a parole violator's Revocation Release Date at which the general and special conditions of parole are issued and explained to the parole violator.~~

*(14) Exit Interview. A meeting with a parole violator and a hearing officer of the Juvenile Parole Board prior to a parole violator's Revocation Release Date at which the general and special conditions of parole are issued and explained to the parole violator.*

~~(201415) Expedited Probable Cause Hearing. A Probable Cause Hearing held at an earlier stage in the proceedings upon sufficient offer of proof by the parolee or his/her counsel that there is a complete defense to all parole violation charges that are the basis for the parole hold.~~

~~(21) Fearful Witness. A person whose identity is known to the parolee, but who has indicated that he/she: 1) does not wish to testify; and 2) fears the risk of harm if he/she testifies in the presence of the parolee.~~

~~(8221516) Full Board En Banc: A *Juvenile Parole* Board hearing conducted by a quorum of the seven five-member *Juvenile Parole* Board. Four Three members are necessary to form a quorum when making case decisions and no action shall be valid unless agreed to by a majority of those present.~~

~~(9) Full Board Panel: A full Board panel is comprised of those persons specified in Welfare and Institutions Code Section 1721(c). A member shall be included in the panel when available.~~

~~(1617) Full Board Panel: A *Full Juvenile Parole* Board panel comprised of three qualified hearing officers. A Commissioner shall be included in the panel when available.~~

~~(231718) Good Cause. Justifiable, legitimate, and unforeseeable reason for the delay, asserted in good faith and caused by factors that are beyond the control of the Division of Juvenile Parole Operations, the Juvenile Parole Board, or the Division of Juvenile Justice.~~

~~(241819) Hearing Officer. A *member* or case hearing representative, who conducts *ward youth* case hearings.~~

~~(1920) Not-In-Custody. A parolee who is not on a Division of Juvenile Justice parole hold.~~

~~(262021) Not-In-Custody Hearing. A Revocation Hearing for a parolee who is not under a Division of Juvenile Justice parole hold.~~

~~(272122) Notice of Charges, *DJJ 3.274 (REV 04/09), incorporated by reference*. An official action conducted by Division of Juvenile Justice staff to personally serve a parolee notice of the charges against him/her including a short factual summary of the charged conduct.~~

~~(282223) Notice of Conditions of Parole, *DJJ 3.207 (REV 04/10), incorporated by reference*. A document that notifies a parolee of behavior and treatment requirements while under parole supervision.~~

~~(292324) Notice of *Revocation* Rights *and Acknowledgement*, *DJJ 3.270 (REV 08/10), incorporated by reference*. An advisement to a parolee of his/her procedural and due~~

process rights in parole revocation proceedings. ~~pursuant to the L.H. Stipulated Permanent Injunction and State and federal constitutions.~~

~~(302425)~~ Parole Hold. Any invocation by the Division of Juvenile Justice of their authority to involuntarily detain a parolee for revocation proceedings and/or commence revocation proceedings pursuant to Welfare & Institutions Code §1767.3. This term shall not apply to the detention of a parolee who has absconded from the State of California until he or she is physically returned to the State of California and is in custody.

~~(312526)~~ Parole Placement Plans. A report prepared by the Division of Juvenile Parole Operations and provided to the Juvenile Parole Board in preparation for a parole violator's release to parole supervision, which includes but is not limited to: identified placement, recommended special conditions of parole, supervision plans, educational/vocational plans, and community treatment plans.

~~(332627)~~ Parole Violator. A parolee who violated a condition of parole, and who has been revoked and returned to custody.

~~(342728)~~ Preponderance of Evidence. Standard of proof that requires a finding that it is more likely than not that a fact or charge is true.

~~(352829)~~ Probable Cause. Facts as would lead a person of ordinary caution and prudence to conscientiously entertain a strong suspicion that an alleged charge is true.

~~(362930)~~ Probable Cause Hearing. A hearing in which the juvenile parolee appears and at which it is determined whether there is probable cause to believe that the juvenile parolee has violated a condition of parole and, if so, whether the juvenile parolee should be detained during the revocation process.

~~(373031)~~ Projected *Juvenile Parole* Board Date. Formerly known as parole consideration date, it is an interval of time in which a youth may reasonably and realistically be expected to achieve readiness for parole. It is not a fixed term or sentence, nor is it a fixed parole release date. It applies to youth who are serving their initial commitments to *Division of Juvenile Justice* and have not been paroled yet.

~~(383132)~~ Reasonable Accommodation. A modification or adjustment that will help provide equal access to programs, activities and services for parolees with disabilities or effective communication needs.

~~(393233)~~ Referee. Any qualified hearing officer sitting alone for the purpose of hearing cases.

~~(41403334)~~ Rescission Hearing. A *Juvenile Parole* Board hearing which may result in rescinding a ~~ward~~youth's referral to parole.

~~(413435)~~ Return to Custody Assessment or Revocation Extension Assessment. A recommended disposition offered by the Juvenile Parole Board which is presented to the parolee prior to a Probable Cause Hearing (also ~~termed~~referred to as "The Offer").

~~(12)~~ Referee. Any qualified hearing officer sitting alone for the purpose of hearing cases.

~~(423536)~~ Revocation Extension Hearing. The two-phase hearing (evidentiary and disposition) in which a ~~parolee~~parole violator appears before the Juvenile Parole Board, at which it is determined whether the preponderance of the evidence shows that the ~~parolee~~parole violator committed Willful Program Failure or Serious In-Custody

Misconduct, and in which the parolee's parole violator's parole revocation period may be extended. A parole violator's parole revocation period may not be extended because of the Division of Juvenile Justice's failure to provide a recommended program at all or in a timely manner.

(~~43~~~~36~~37) Revocation Extension Probable Cause Hearing. A hearing in which the ~~juvenile parolee~~parole violator appears and at which it is determined whether there is probable cause to believe that the ~~juvenile parolee~~ parole violator committed either ~~S~~erious ~~I~~n-Custody ~~M~~isconduct or ~~W~~illful ~~P~~rogram ~~F~~ailure.

(~~44~~~~37~~38) Revocation Hearing. A two-phase hearing (evidentiary and disposition) at which it is determined whether the preponderance of the evidence shows that a parolee violated a condition of parole and whether the parolee should be returned to parole supervision or remanded to custody.

(~~45~~~~38~~39) Revocation Proceeding/Revocation Process. All stages of the process by which a parolee/parole violator may be returned to or retained in custody following an alleged parole violation ~~and a Welfare and Institutions Code 1767.3 hold may have been placed~~up to and including the ~~R~~evocation Hearing or ~~R~~evocation ~~E~~Extension ~~H~~earings and any administrative appeal. In the case of alleged parole violators who are not in custody, the revocation process begins when the parolee is notified of the pending charges and of his or her rights.

(~~46~~~~39~~40) Revocation Release Date. The date in which a parole violator will be released to the community.

(~~47~~~~40~~41) Serious In-Custody Misconduct. In-~~C~~ustody behavior by a parole violator that poses an immediate and serious threat to the safety and security of youth, staff or property within the facility. ([See Revocation Extension Matrix](#))

(~~49~~~~41~~42) Sufficient Offer of Proof. A reasonable likelihood that a parolee would produce un-controverted evidence of his/her innocence at an expedited probable cause hearing.

(~~49~~~~42~~43) Victim. A person against whom a parole violation has been committed.

(~~13~~) Violation Hearing. A Board hearing to determine whether or not a parolee has violated the conditions of his/her parole.

(~~50~~~~43~~44) Violation Levels.

(~~A~~) Level 1: Minor violations of parole for which detention may not be warranted.

(~~B~~) Level 2: Selected minor law violations, moderate technical violations, or repetitive Level 1 behavior for which detention may not be warranted.

(~~C~~) Level 3: Any behavior that the Division of Juvenile Parole Operations believes represents a risk or threat to public safety. Level 3 violations are mandatory referrals to the Juvenile Parole Board.

(~~52~~~~44~~45) Willful Program Failure. Repeated and intentional refusal to attend and/or participate in a treatment and training program. The repeated refusal shall be documented by treatment staff. Staff shall specify the dates of non-participation and shall include information demonstrating that the parole violator does not have a mental or physical impairment that prevents him/her from fully participating in the program. A parole violator shall not be charged with willful program failure when program unavailability,

facility lockdown, instructor absence or other circumstances beyond the parole violator's control prevent him/her from completing the program prior to the expiration of his/her revocation term.

~~(e) In case of any community crisis or emergency, either statewide or regional, the mandatory timelines and schedules (including releases) as required within CCR, Title 15 are hereby extended by thirty days or fifteen days respectively. Any statewide crisis may extend required or mandated timelines by thirty days. Any regional crisis that does not reach the level of a statewide crisis may extend required or mandated timelines by fifteen days.~~

Note: Authority cited: Section ~~1721~~, 1725, Welfare and Institutions Code. Reference: Sections 1711, 1714, 1716, ~~1717~~, 1719, 1720, ~~1721~~, ~~1722~~ and 1723, Welfare and Institutions Code.

#### **§ 4925. Level of Decision Making.**

~~The classification or category of wards' cases or the type of hearing determines the level of decision making exercised by the Board. This chapter sets forth certain case decisions which shall be made by the full board en banc, a full board panel, or by a board panel. A referee is authorized to make ward case decisions in all hearings for Categories 6 and 7 (Sections 4956- 4957), initial hearings for Categories 4 and 5 (Sections 4956-4957), and annual and progress reviews for wards housed at or committed to any non Youth Authority facility, and all Disciplinary Decision Making System (DDMS) matters for all categories (Sections 4951 through 4957). Hearings may be conducted by the authorized or a higher level of decision making.~~

#### **§ 4925. Level of Decision Making.**

The classification or category of youth cases or the type of hearing determines the level of decision making exercised by the *Juvenile Parole* Board. This chapter sets forth certain case decisions which shall be made by the *F*ull *B*oard *E*n *B*anc, ~~a full board panel,~~ or by a *B*oard *P*anel. A referee is authorized to make ~~ward~~ youth case decisions in all hearings for Categories 6 and 7 (Sections 4956- 4957), and annual and progress reviews for youth housed at or committed to any non-Division of Juvenile Justice facility. Hearings may be conducted by the authorized or a higher level of decision making.

Note: Authority cited: Section ~~1722~~ 1712 and 1719, Welfare and Institutions Code. Reference: Sections ~~1703(d)~~ 1714, 1719, ~~1721~~, and 1723, Welfare and Institutions Code.

#### **§ 4926. Case Decisions.**

(a) In order for a case decision made by the ~~f~~Full ~~b~~Board ~~e~~En ~~b~~Banc, ~~a Full Board Panel,~~ or a ~~b~~Board ~~p~~Panel to be effective, a majority of the ~~quorum~~ *Juvenile Parole* Board members present shall ~~concur~~ agree in the decision.

(b) All case decisions shall be recorded on a written *Juvenile Parole* Board ~~o~~Order. The ~~ward~~ Youth/parolees/parole violators shall be given a copy of the *Juvenile Parole* Board ~~o~~Order for their case.

Note: Authority cited: Sections ~~1712~~, and 1719, ~~1722~~, Welfare and Institutions Code. Reference: Sections ~~1703(d)~~, ~~1714~~, 1719, ~~1721~~ and 1723, Welfare and Institutions Code.

**§ 4927. ~~Ward—Youth/Parolee/Parole~~ Violator Appearance and ~~Voice—Audio~~ Recording of Hearings.**

(a) ~~All H~~hearings shall be ~~voice recorded on tape audio recorded~~ when the ~~ward youth/parolee/parole violator~~ is present, with the exception of Probable Cause Hearings and Exit Interviews. Annual reviews for wards on parole, annual and/or progress reviews for Youth Authority wards housed at or committed to any non-Youth Authority facility need not be appearance hearings. The ~~ward youth/parolee/parole violator~~ who is the subject of the hearing, and with the ward's consent his/her attorney, and with the youth's consent, anyone ~~else who is~~ eligible to appeal a Juvenile Parole Board Order, shall be permitted to listen to the recording. Recordings shall be retained for a period of 15 months from the date of the hearing.

(b) A ~~ward youth~~ shall attend all ~~Youth Authority~~ Division of Juvenile Justice ~~(DJJ) facility~~institutional hearings, with the exception of for those wards:

(1) ~~Youth~~ Unable to attend due to medical reasons as determined by ~~Youth Authority~~ DJJ Division of Juvenile Justice medical staff.

(2) ~~Youth~~ Housed at or committed to any non-Youth Authority DJJ Division of Juvenile Justice facility.

(3) Annual and/or progress reviews for youth on parole.

(c) Subsection (b) does not apply to ~~Revoation or Revocation Extension~~ proceedings.

Note: Authority cited: Sections ~~1721 and 1722~~ 1001, 1004, 1712, and 1719, Welfare and Institutions Code. Reference: Sections ~~1721~~ 224.70(e), 1703(d), and 1723, Welfare and Institutions Code.

**§ 4928. Board Panel Unable to Agree and Dissents.**

(a) ~~When a Board panel is unable to agree on a case decision, the matter shall be referred to the Chairperson. Each hearing officer shall prepare a proposed Board Order setting forth his/her motion and the reasons for his/her order. The Chairperson shall consider the case and concur with one of the proposed orders.~~

(b) ~~In cases in which a hearing officer dissents from a full Board panel or Full Board En Banc decision, he/she shall so indicate on the Board Order and shall state his/her reason(s) on the order.~~

(a) When a Juvenile Parole Board panel is unable to agree on a case decision, the matter shall be referred to the Executive Officer or his/her designee. Each hearing officer shall prepare a proposed Juvenile Parole Board Order setting forth his/her motion and the reasons for his/her order. The Executive Officer or his/her designee shall consider the case and concur with one of the proposed orders.

(b) In cases in which a hearing officer dissents from a ~~Full Board~~ Panel or Full Board En Banc decision, he/she shall so indicate on the Juvenile Parole Board Order and shall state his/her reason(s) on the order.

Note: Authority cited: Section ~~1722~~1712, Welfare and Institutions Code. Reference: Sections ~~1721~~1719 and 1723, Welfare and Institutions Code.

**§ 4929. Conditions of Parole.**

The Juvenile Parole Board shall set conditions of parole at the time parole is granted. Special Conditions conditions of parole may be added or deleted as appropriate and deemed necessary by the Juvenile Parole Board during the time ~~ward~~ a parolee is on parole. ~~either by the Juvenile Parole Board, or by the parolee's assigned parole agent. A parole agent, however, cannot change or delete orders by the Juvenile Parole Board.~~

(a) Notice of General Conditions of Parole, ~~(Form~~ DJJ 3.207 (REV 04/10). The following are general conditions of parole:

- (1) You ~~shall~~ must follow the instructions of your ~~P~~parole ~~A~~gent.
- (2) You ~~shall~~ must obey all laws and ordinances. Conduct prohibited by law is considered a parole violation, even if you are not charged or convicted in court.
- (3) You ~~shall~~ must not change your approved placement or leave the State of California without the permission of house/placement without the prior permission of your ~~P~~parole Agent. You shall not avoid parole supervision.
- (4) You ~~shall~~ must not ~~evade parole supervision~~ must not leave the State of California without the written permission of your ~~P~~parole ~~A~~gent, and you are required to return to the State of California within the timeframe specified. Timeframes for processing any violations of parole will not begin until you return to the State of California.
- (5) You ~~shall not be a substantial danger to yourself or do anything which is a substantial danger to yourself or to the person or property of another. and your residence, and any other property under your control, may be searched with or without a warrant and with or without probable cause by a parole agent of the California Department of Corrections and Rehabilitation, a parole agent of the Juvenile Parole Board, and/or any peace officer at any time of day or night.~~
- (6) You ~~and your residence and any property under your control, may be searched without a warrant by a parole agent of the Department of the Youth Authority, a parole agent of the Youthful Offender Parole Board~~ must not own, possess, use, have under your control or have access to any deadly weapons, firearms (any kind of gun), knives (with blade longer than 2 inches), crossbow~~s~~, explosives devices, tasers or ammunition.
- (7) You ~~may not use, possess, sell or have under your control any firearm if you have a felony conviction. must not own, use, possess, or have under your control or have access to any simulated weapons, which would cause a reasonable person to believe that you are in possession of a deadly weapon, firearm, knife, explosive device or ammunition (i.e. toy guns, BB guns, Air Soft guns, plastic guns or knives).~~
- (8) You ~~shall abstain from the use of alcoholic liquor or beverages if you have been convicted of any of the offenses listed in Section 290 of the Penal Code~~ must report all arrests/citations to your Parole Agent or his/her designee within one business day of such contact.
- (9) You must not be in the United States illegally.
- (10) You must provide proof of employment, education or vocational training, or proof of actively seeking such activity.
- (11) You must not own, use, possess, sell, have under your control or access to, any controlled substance, dangerous drug, narcotic, including marijuana, or other mind altering substance without a valid prescription from a licensed physician.



(12) You must not own, use, possess, sell, have under your control or access any drug paraphernalia (i.e. crack pipes, roach clips, bong, meth pipes, rolling papers, spoons, syringes).

(13) You must submit to drug testing for illegal drugs, prescription drugs, and/or alcohol as directed by your ~~P~~arole ~~A~~gent.

(14) You must not loiter in areas in which known drug sale activities are occurring.

(15) You must pay in full any restitution fine or restitution order imposed by the court as a result of your commitment. Payment shall be in installments set in an amount consistent with your ability to pay ~~as defined by WIC 1766.1~~.

(16) You must sign this agreement containing the conditions of parole or your parole will be rescinded/revoked.

(b) Special Conditions of Parole. The Juvenile Parole Board may prescribe special conditions of parole based on ~~the~~ an individual ward's parolee's offense history, commitment offense/current violation, or future criminality broadly defined to take into account the parolee's entire social history ~~or documented behavior~~.

Note: Authority cited: Section ~~1719~~1722, Welfare and Institutions Code. Reference: Sections 1714, 1719, 1725, 1730, 1766 and 1767.2, Welfare and Institutions Code.

#### **4935. General Policy.**

An appeal is a written request to the ~~Chairman~~ Executive Officer or his/her designee for relief from any Juvenile Parole Board ~~Order~~ or policy which affects an individual youth/parolee/parole violator. Appeals may be filed by the ~~ward himself, his youth/parolee/parole violator, parent or duly appointed guardian if he—the youth/parolee/parole violator is under 18 years of age, or by an attorney representing the ward—youth/parolee/parole violator.~~ A ~~ward—youth/parolee/parole violator~~ shall be provided an Appeal Form, DJJ 1.316 (Rev 10/07) for appealing non-revocation related issues or an Appeal of Parole Revocation Decisions form, DJJ 3.290 (NEW 10/09) for revocation related issues, both incorporated by reference, forms to submit appeals, while other eligible appellants may appeal by letter. The time limitations in which an appeal may be filed as set forth in this chapter may, ~~for good cause,~~ be waived by the ~~Chairman~~ Executive Officer or his/her designee.

Note: Authority cited: Section ~~1722~~ 1719, Welfare and Institutions Code. Reference: Sections ~~1721 and~~ 1723, Welfare and Institutions Code.

#### **4936. Appeal Criteria.** The basis for appeal shall be one or more of the following:

(a) The decision of the Juvenile Parole Board was based on a mistake of law. ~~Board was contrary to law or Board policy.~~

(b) The decision of the Juvenile Parole Board was based on a mistake of fact. ~~There is relevant information which was not available at the time of the hearing.~~

(c) ~~The Board policy, which was the basis for the Board's actions regarding a ward, should be changed.~~

(c) The parolee was unable to understand the proceeding and/or provided ineffective assistance of counsel due to mental illness or other physical disability that was not adequately accommodated.

(d) The Juvenile Parole Board failed to provide an impartial hearing officer.

(e) The decision of the Juvenile Parole Board was contrary to *any of the provisions contained in Division 4.0, Chapter 4, Article 5 and Division 4.5 of Title 15, California Code of Regulations*, ~~a Juvenile Parole Board policy~~ and the outcome of the hearing would have been substantially different had the *provisions* ~~Juvenile Parole Board policy~~ been followed.

(f) The audio recording of the hearing is inaudible.

(dg) There are ~~unusual~~ extraordinary circumstances involved in the case which require Juvenile Parole Board action in order to further the interest of justice.

Note: Authority cited: Section 17221766, Welfare and Institutions Code. Reference: Sections 17211719 and 1723, Welfare and Institutions Code.

#### ~~§ 4937. Appeal Body and Structure.~~

~~The following comprise the appeal bodies:~~

~~(a) The first level of appeal is the Chairman.~~

~~(b) The second level of appeal is the appeal panel which has the same composition as a full board panel. Whenever possible, the appeal panel shall not include those persons whose decision is being appealed.~~

~~(c) The final level of appeal is the full board en banc.~~

#### ~~§ 4937. 5. Appeal Body for Parole Revocation Administrative Appeals.~~

~~(a) All appeals relating to the parole revocation and revocation extension process will be decided by the Executive Officer or his/her designee.~~

~~(b) For appeals relating to the parole revocation and revocation extension proceedings, there is only one level of appeal for these proceedings.~~

~~(c) For appeals relating to all other proceedings:~~

~~(1) The first level of appeal is the Executive Officer or his/her designee.~~

~~(2) The second level of appeal is the appeal panel which has the same composition as a Full Board Panel. Whenever possible, the appeal panel shall not include those persons whose decision is being appealed.~~

~~(3) The final level of appeal is the Full Board En Banc.~~

Note: Authority cited: Section 17221725, Welfare and Institutions Code. Reference: Sections 17211719 and 1723, Welfare and Institutions Code.

#### ~~§ 4938. Parole Revocation Administrative Appeal Time Limits.~~



(a) ~~Appellants.~~ There is a 20 business day time limit from the date of ~~hearing for filing initial appeals by appellants~~ receipt of the written decision to file an appeal ~~relating to a Parole Revocation or Revocation Extension Proceeding.~~

~~(b) Appeals from the decision of the Chairman or appeal panel Executive Officer or his/her designee shall be filed within ten (10) business days of receipt of the decision, and may be filed only when there is substantial new evidence not previously available to the board. The time limitations set forth in this section may, for good cause, be waived by the Chairmen. No appeal shall be dismissed or denied merely because of technical defects.~~

~~(c) Appeal Body.~~ The ~~Chairman~~ Executive Officer or his/her designee shall decide on the appeal within ten (10) business days of receipt of the appeal. ~~An appeal panel or the full board en banc shall decide on the appeal within 30 days after receipt of the appeal.~~

~~(d) No appeal shall be dismissed or denied because of technical defects.~~

~~(e) The appeal decision shall be served on the youth/parolee/parole violator within five (5) business days of the appeal decision.~~

(e) Appeals from the decision of the Executive Officer or his/her designee shall be filed within ten (10) business days of receipt of the decision, and may be filed only when there is substantial new evidence not previously available to the Juvenile Parole Board.

~~(f) Rehearings.~~ Rehearings for appeals shall be scheduled within ~~30~~ ten (10) business days of the order of any appeal body. Rehearings may be granted at any level of appeal when a determination is made that there is insufficient information upon which to make an informed decision. Factual material deemed critical to the case decision shall be made known to those conducting the rehearing. Whenever possible, the rehearing shall be conducted by persons other than those persons whose decision was appealed.

Note: Authority cited: Section 1722-1719, Welfare and Institutions Code. Reference: Sections 1721 and 1723 and 1725, Welfare and Institutions Code.

#### **§ 4939. Authorized Appeal Body Actions for all other Non-Revocation Related Appeals.**

~~Appeal bodies may take action as follows:~~

(a) ~~Chairman.~~ ~~The Chairman~~ The Executive Officer or his/her designee may take any one of the following actions:

(1) Deny the appeal.

(2) Order a rehearing.

(3) Order the matter referred to the appeal panel.

(4) Order the matter referred to the ~~f~~Full ~~b~~Board ~~e~~En ~~b~~Banc, when the Executive Officer or his/her designee:

(A) ~~He~~ ~~The Executive Officer or designee~~ ~~d~~Determines a unanimous ~~f~~Full ~~b~~Board ~~e~~En ~~b~~Banc decision merits further action.

(B) ~~He~~ ~~The Executive Officer or designee~~ ~~d~~Determines an appeal justifies reconsideration of a Juvenile Parole Board policy.

(b) ~~Modifications by Chairman.~~ The ~~Chairman~~ Executive Officer or his/her designee shall not modify prior Juvenile Parole ~~Board~~ actions.

(c) ~~Appeal Panel.~~ The appeal panel may grant the appeal, deny the appeal, modify prior Juvenile Parole Board action, order a rehearing, or refer the case to the ~~Full Board~~ En Banc.

(d) ~~Full Board En Banc.~~ The ~~Full Board~~ En Banc may grant the appeal, deny the appeal, modify prior Juvenile Parole Board action, order a rehearing, and/or may consider a change in policy as a result of the appeal.

Note: Authority cited: Section ~~1722~~ 1719, Welfare and Institutions Code. Reference: Sections ~~1721 and 1723~~ and 1725, Welfare and Institutions Code.

#### **§ 4939.5. Authorized Actions Relating to Parole Revocation Administrative Appeals**

(a) The Executive Officer or his/her designee may take any one of the following actions:

(1) Deny the appeal.

(2) Reverse the decision and grant appropriate relief.

(3) Grant a new hearing within ten (10) business days after the issuance of the ~~Appeal Board Order, DJJ 1.311 (Rev 11/08), incorporated by reference.~~ New hearings shall be scheduled according to Section 4938 ~~policy~~ and shall be conducted by a hearing officer other than the original hearing officer.

(b) If a new hearing is granted solely because the audio recording was inaudible, at the rehearing the Juvenile Parole Board shall not order a revocation term longer than the term imposed at the initial hearing.

Note: Authority cited: Section 1719, Welfare and Institutions Code. Reference: Sections 1723 and 1725, Welfare and Institutions Code.

#### **4940. Orders and Completion of Appeals.**

(a) Every decision of the ~~appeal body~~ Executive Officer or his/her designee shall be recorded on a ~~Board~~ Appeal Board Order, DJJ 1.311 (Rev 11/08). The ~~Board~~ Appeal Board Order, DJJ 1.311 (Rev 11/08) shall state the reasons for the action taken and how the authorized criteria were applied to the issues raised in the appeal. The Executive Officer or his/her designee shall forward a copy of the ~~Board~~ Appeal Board Order, DJJ 1.311 (Rev 11/08) and such communication as he/she deems appropriate to the appellant within five (5) business days from the date of decision.

~~(b) A decision on an appeal shall be final when:~~

~~(1) The appellant accepts the decision of the appeal body.~~

~~(2) A rehearing has been completed and a decision rendered.~~

~~(3) The full board en banc denies the appeal.~~

~~(4) A policy change has been considered and approved or denied.~~

Note: Authority cited: Section ~~1722–1719~~, Welfare and Institutions Code. Reference: Sections ~~1721 and 1723~~ and 1725, Welfare and Institutions Code.

#### **Article 4. ~~Special Hearings and~~ Actions in Institutions**

**Section 4961. remains unchanged.**

##### **§ 4961.1 In-Custody Misconduct for Parole Violators.**

~~(a) Disciplinary Decision Making System (~~DDMS~~) ~~policy for youth~~ as set forth in Sections 4630 through 4654 applies to parole violators where the sanctions imposed do not extend a parole violator's confinement. ~~This applies to Levels 1 through 3 of the Disciplinary Decision Making System that do not extend the~~ or ~~Revocation Release Date (RDD).~~~~

~~(b) Any recommendation for an extension of the Revocation Release Date shall be referred to the Juvenile Parole Board ~~IPB~~ for revocation extension proceedings. Parole violators undergoing revocation extension proceedings shall be provided the rights and processes outlined in Sections 4853 and 4977 ~~(b)~~.~~

~~(c) Extensions of a parole violator's Revocation Release Date shall not occur except where the Juvenile Parole Board (~~IPB~~) finds by a preponderance of the evidence that a parole violator has committed Serious In-Custody Misconduct or Willful Program Failure as defined in Section 4900.~~

~~(d) Pending a District Attorney Referral. If Level 3 Serious In-Custody Misconduct has been referred to the District Attorney for prosecution and charges have been filed, a parole violator may conditionally accept the Revocation Extension Assessment and conditionally waive a Revocation Extension Hearing. He/she retains, however, the option to request a hearing once criminal proceedings are completed.~~

~~(1) This type of waiver is referred to as an "optional waiver".~~

~~(2) In order for a parole violator to be eligible to optionally waive his/her Revocation Extension Hearing, criminal charges must have been filed with the District Attorney on the same behavior as the Level 3 Serious In-Custody ~~Criminal~~ Misconduct.~~

~~(3) A hearing request must be received by the Juvenile Parole Board (~~IPB~~) or postmarked within fifteen (15) business days following sentencing or final disposition at the trial court level in the criminal proceedings, and no later than 35 days before expiration of the revocation period as ordered by the Juvenile Parole Board.~~

(4) Upon receipt of a hearing request, the Juvenile Parole Board shall schedule an Optional Waiver Review. At the hearing, the hearing officer may take any appropriate action not to exceed the Revocation Extension Assessment.

(e) ~~Dual Jurisdiction-Commitment Cases.~~ The Division of Juvenile Parole Operations ~~(DJPO)~~ shall be responsible for revocation extension referrals for parole violators housed in institutions other than those operated by the Division of Juvenile Justice ~~(DJJ)~~.

NOTE: Authority cited: Section 1712, Welfare and Institutions Code. Reference: Sections 1719, Welfare and Institutions Code.

**§ 4977. Protections Afforded a ~~Ward~~Parolee/Parole Violator in Parole Violation Matters.**~~A parolee who is scheduled for a probable cause, detention, violation, or disposition hearing shall be afforded the following rights:~~

- ~~(a) Notice of date, time, and place of hearing at least five days in advance of the hearing.~~
- ~~(b) Notice of the alleged parole violations and the evidence relied upon in support of the allegations.~~
- ~~(c) To receive a copy of any police, arrest, and crime reports which are in the possession of the Department pertaining to such proceedings. Portions of such reports containing confidential information need not be disclosed if the parolee or his attorney has been notified that confidential information has not been disclosed to them.~~
- ~~(d) To ask for the assistance of counsel and to receive counsel when he meets the established criteria.~~
- ~~(e) To appear in person and speak in his own behalf~~
- ~~(f) To bring letters and documents to the hearing and to request the presence of individuals who can give relevant information in his behalf.~~
- ~~(g) To request that persons appear who have given adverse information so they may be questioned in his presence.~~
- ~~(h) To ask for a postponement if new evidence is presented at the hearing and he needs time to prepare a response.~~
- ~~(i) To have the facts established and a detention or revocation decision made by an independent party not associated with the recommendation. The Board assumes the responsibility for such decision making.~~
- ~~(j) To receive a written summary of a hearing where facts were established or where detention or revocation of parole was ordered. The summary shall include the evidence relied upon where probable cause or violation of parole is established at the hearing. When detention or revocation of parole is ordered, the reasons for such action shall be included in the summary.~~

~~(a) The Juvenile Parole Board shall appoint counsel to represent each and every Juvenile Parolee in the Revocation and Revocation Extension processes.~~ (b) Parolees/parole violators detained in custody will have the following rights in revocation and revocation extension proceedings:

(1) To receive written notice of the rights outlined herein. For parole revocation cases, this notice of rights must be served on the parolee within three (3) business days after the parole hold.

(2) To receive written notice of the charges against him or her. For parole revocation cases, this notice of charges must be served on the parolee within three (3) business days after the parole hold.

(3) To receive a copy of all evidence that will be used against the parolee/parole violator unless it is deemed confidential.

(4) An attorney to represent the parolee/parole violator during the ~~Revocation~~and ~~Revocation Extension~~ process in accordance with Section 4979. A parolee/parole violator has the right to retain a private attorney or to be represented by his/her public defender.

(5) A Probable Cause Hearing.

(A) In the revocation process this shall occur within thirteen (13) business days following the parole hold.

(B) In the revocation extension process this shall occur within thirteen (13) business days following service of the notice of rights to the parole violator.

(C) The parolee ~~or~~ /parole violator has the right to request an expedited Probable Cause Hearing if there is evidence that shows he or she is completely innocent of the charges.

(6) If the charges are not resolved at the Probable Cause Hearing, the parolee/parole violator will have a right to a Revocation or Revocation Extension Hearing.

~~(A)~~ Revocation Hearings shall take place within thirty-five (35) calendar days following a parole hold.

~~(B)~~ Revocation Extension Hearings shall take place within thirty-five (35) calendar days following the notice of rights to the parole violator.

~~(C)~~ He/she shall have the right to receive notice of the date and time of the hearing.

(7) To be heard in person and to present witnesses and documentary evidence in his/her defense at a Revocation or Revocation Extension Hearing.

(A) For Parole Revocation Hearings, the parolee shall have the right to subpoena witnesses and present evidence to the same extent and on the same terms as the Division of Juvenile Justice, including the right to question live witnesses through his/her attorney.

(B) For Revocation Extension Hearings, the right to call witnesses and present documentary evidence is limited by institutional safety and correctional goals.

(8) To accommodations and assistance sufficient to ensure equal access to and effective communication during the revocation/revocation extension process as outlined ~~below~~in Section 4977.6.

(9) To a neutral and detached hearing officer.

(10) To a written decision by the hearing officer addressing the evidence relied on and the reasons for the decision.

(11) To receive an audible audio recording of the Revocation or Revocation Extension Hearing within ten (10) business days from the date the Juvenile Parole Board receives a written request for the recording.

(12) To file an appeal with the assistance of an attorney within 20 business days of receipt of the written hearing decision.

Note: Authority cited: Section ~~4722~~1766, Welfare and Institutions Code. Reference: Sections ~~1714, 1719, and 1721-1723~~ and 1766, Welfare and Institutions Code.

#### **§ 4977.5. Not-In-Custody Hearings.**

(a) A parolee who is not detained in custody on a Division of Juvenile Justice parole hold while undergoing ~~Re~~vocation proceedings is considered to ~~have~~ be a Not-~~In~~-Custody status case.

(b) A parolee charged with a violation of parole who is ~~in~~Not-In-Custody status has the following rights:

(1) To receive written notice of the rights outlined herein within ten (10) business days after ~~parole discovers the behavior~~ the date of discovery.

(2) To receive written notice of the charges against him/her within ten (10) business days after ~~parole discovers the behavior~~ the date of discovery.

(3) To receive a copy of all evidence that will be used against the parolee unless it is deemed confidential.

(4) An attorney to represent the ~~youth~~ parolee during the revocation process in accordance with Section 4979. A parolee has the right to retain a private attorney or to be represented by his/her public defender.

(5) A Revocation Hearing that shall take place within sixty (60) calendar days after the parolee has been served with the notice of rights and charges.

(6) To be heard in person and to present witnesses and documentary evidence in his/her defense at the Revocation Hearing.

(7) To accommodations and assistance sufficient to ensure equal access to and effective communication during the revocation~~revocation~~ extension process as outlined ~~below~~ in Section 4977.6.

(8) To a neutral and detached hearing officer.

(9) To a written decision by the hearing officer addressing the evidence relied upon and the reasons for the decision.

(10) To receive an audible audio recording of the Revocation Hearing within ten (10) business days of Juvenile Parole Board's receipt of a written request.

(11) To file an appeal with the assistance of an attorney within twenty (20) business days of receipt of the written hearing decision."

(c) A parolee charged with a violation of parole who is ~~in~~ "Not-In-Custody" status does not have the right to a Probable Cause Hearing.

Note: Authority cited: Sections 1001, 1004, and 1712, Welfare and Institutions Code.  
Reference: Sections 1714 and 1719, 1723 Welfare and Institutions Code.

**§ 4977.6 Accommodations and Assistance for Parolees/Parole Violators with Disabilities and/or Effective Communication Needs.**

(a) Parolees/parole violators shall have the following rights to reasonable accommodations and effective communication during ~~Re~~vocation and ~~Re~~vocation ~~E~~xtension proceedings to ensure meaningful participation:

(1) To receive accommodation for disabilities and effective communication assistance throughout the ~~Re~~vocation or ~~Re~~vocation ~~E~~xtension process.

(2) To receive help talking, reading, hearing, seeing, understanding or getting to hearings.

(3) To receive help in meeting with counsel.

(4) To receive the assistance of a foreign language interpreter if the parolee/parole violator does not speak English.

(5) To receive the assistance of a sign language interpreter if the parolee/parole violator is deaf and uses sign language.

(6) To receive help reading all related forms and papers.

(7) To use special transportation if needed to attend hearings.

(8) To file a grievance or appeal if the parolee/parole violator did not receive the help he/she needed.

Note: Authority cited: Section 1766, Welfare and Institutions Code. Reference: Sections 1714, 1719, and 1767.35, Welfare and Institutions Code.

**§ 4977.7 Remedies for Late Hearings in the Parole Revocation Process.**

(a) Any reduction for timeframe violations that a parolee is entitled to as explained ~~within this section~~~~below~~ shall not affect the hearing officer's determination of the appropriate case disposition.

(b) Late Probable Cause Hearing Remedy.

(1) If the Probable Cause Hearing for an ~~i~~n-~~Ce~~ustody parolee occurs after the ~~thirteenth~~ ~~(13<sup>th</sup>)~~ business day but before the thirty-fifth (35<sup>th</sup>) calendar day following placement of the parole hold without a showing of good cause, the remedy shall be a hearing to be held at the earliest possible date.

(2) If the Probable Cause Hearing for an In-Custody parolee occurs after the thirty-fifth (35<sup>th</sup>) calendar day following placement of the parole hold without a showing of good cause, the ~~p~~arolee shall be entitled to a reduction in his/her return to custody by one day for every day the Probable Cause Hearing occurs beyond the thirty-fifth (35<sup>th</sup>) calendar day.

(c) Late Revocation Hearing Remedy.

(1) If the Revocation Hearing for an in-custody parolee occurs after the thirty-fifth (35<sup>th</sup>) calendar day following placement of the parole hold without a showing of good cause,



the parolee shall be entitled to a reduction in his/her return to custody by one day for every day the Revocation Hearing is late.

(2) If the Revocation Hearing for an ~~In-Custody~~ parolee occurs after ninety (90) calendar days following the placement of a parole hold without a showing of good cause, prejudice shall be presumed, the case shall be dismissed, the Division ~~of Juvenile Justice~~ parole hold must be withdrawn and, assuming there are no other holds, the parolee released as soon as possible but no later than three (3) business days from the ninety-first (91<sup>st</sup>) day.

(d) Late Not-In-Custody Revocation Hearing Remedy.

(1) If the Not-In-Custody Revocation Hearing occurs after the sixtieth (60<sup>th</sup>) calendar day following service to the parolee of the notice of charges without a showing of good cause, the remedy shall be a hearing unless the parolee can demonstrate actual prejudice as a result of the delay.

(e) Late Revocation Extension Hearing Remedy.

(1) If the Revocation Extension Hearing occurs after the thirty-fifth (35<sup>th</sup>) calendar day following service to the parolee of the notice of charges with or without a showing of good cause, the hearing shall be held at the earliest possible date.

(2) For parole violators held beyond their Revocation Release Date (~~RRD~~) due to pending revocation extension charges, if the Revocation Extension Hearing occurs after the thirty-fifth (35<sup>th</sup>) calendar day following the notice of charges without a showing of good cause, the ~~P~~parole ~~V~~violator shall be entitled to a reduction in his/her extension by one day for every day the Revocation Extension Hearing is late.

(3) For ~~P~~parole ~~V~~violators held beyond their Revocation Release Date, if the Revocation Extension Hearing does not occur within ninety (90) calendar days following the notice of charges without a showing of good cause, prejudice shall be presumed, the case shall be dismissed, an Exit Interview shall be conducted, the Division ~~of Juvenile Justice~~ parole hold must be withdrawn and, assuming there are no other holds, the ~~P~~parole ~~V~~violator released as soon as possible but no later than three (3) business days from the ninety-first (91<sup>st</sup>) day.

Note: Authority cited: Section 1766, Welfare and Institutions Code. Reference: Sections 1719 and 1723, Welfare and Institutions Code.

**§ 4978. Detention.**(a) Criteria for Detention. A parolee ~~shall~~may be detained when it is determined it is more likely than not there is a substantial risk that unless he/she is detained ~~he/she will be~~:

(1) ~~An immediate and significant~~ ~~The p~~Parolee is a danger to the person or property of another-himself/herself;

(2) ~~An immediate and significant~~ ~~The p~~Parolee is a danger to himself//herself the person or property of another;

(3) ~~In immediate danger of leaving the jurisdiction of the Youth Authority.~~ ~~The p~~Parolee is a risk to abscond from parole supervision; or

(4) ~~The p~~Parolee's mental state has deteriorated to the point where it is likely that there is a threat to public safety.(b) Authority to Detain.



(1) The Juvenile Parole Board may detain a parolee upon a determination that a criterion for ~~when detention criteria has been met and that probable cause exists it determines there is probable cause to believe a parolee has violated a condition of parole or when a violation of parole has been established.~~

(c) Time Limits on Detention Prior to Juvenile Parole Board Hearings.

(1) No later than two (2) business days after the parole hold is placed, the Parole Agent and the Supervising Parole Agent will confer to determine:

(A) Whether there is probable cause to believe that the parolee violated a condition of parole.

(B) Whether the parolee meets any of the detention criteria and should be detained pending a formal Probable Cause Hearing.

~~(12) A parolee has a right to a hearing before the Board within 60 days of Youth Authority initiated detention. A parolee who is in custody and has been charged with a parole violation has a right to a Probable Cause Hearing before the Juvenile Parole Board within thirteen (13) business days of a Division of Juvenile Justice-initiated parole hold to determine:~~

~~(A) To determine whether he/she has violated a condition of parole~~ Whether there is probable cause to believe that he/she has violated a condition of parole; and

~~(B) To determine whether there is probable cause to believe he/she has violated parole when court action is pending~~ Whether he/she should remain in custody pending the outcome of the revocation proceedings.

~~(23) When hearings occur more than 60 days after a Youth Authority initiated detention, a written justification shall be presented to the hearing officer. The justification shall document the reasons for the delay and may be distributed to the parolee, his/her attorney, the parole agent and the board hearing coordinator. If the Juvenile Parole Board finds that a criterion for detention has not been met, or that there is no probable cause to believe that a parolee violated a condition of parole, the Division of Juvenile Justice parole hold must be withdrawn and, assuming there are no other holds, the parolee released as soon as possible but no later than three (3) business days from the date of the hearing.~~

~~(3) The hearing officer may determine a delay has resulted in substantial prejudice to the parolee. Substantial prejudice is a handicap suffered by the parolee and caused by a delay which could reasonably influence the outcome of the hearing.~~

~~(A) A hearing officer will use the preponderance standard of proof in determining the existence of substantial prejudice.~~

~~(B) A hearing officer must be convinced beyond a reasonable doubt that the parolee has not been prejudiced when the violation or probable cause hearing has been delayed for two months or longer.~~

~~(C) When a hearing officer determines there is substantial prejudice he/she shall either dismiss all actions before him/her or those allegations wherein substantial prejudice is found.~~

(d) Changes to Conditions Supporting Detention.

(1) A ~~P~~parole ~~A~~gent shall ensure that a detained parolee ~~may~~can communicate with him/her at any reasonable time when the parolee has new information which might possibly change a detention decision.

(2) When a hearing officer has ordered a parolee detained, release from detention requires approval by ~~a Member or Board representative~~the Juvenile Parole Board. Parole staff shall contact the hearing officer making the original order, or in his/her absence, another ~~Member or Board representative hearing officer~~ when new information indicates detention is no longer required. The hearing officer may give verbal approval for withdrawal of the detention order with the stipulation that a written report will be presented at a non-appearance parole calendar explaining the action.

(3) When court action is extended and the parolee is detained, the ~~Youth Authority~~ Division of Juvenile Justice may consider placing the parolee in a ~~Youth Authority~~ Division of Juvenile Justice ~~institution facility~~. This may occur when it is deemed to be in the best interest of the parolee, and provideding it does not interfere with the court process.

(ge) Parolees undergoing court action in other states and/or being held by ~~Youth Authority~~ the Division of Juvenile Justice in other states, will be ~~handled~~processed in the same manner as other parolees in the violation process except as follows:

(1) Detention of parolees in other states by the ~~Youth Authority~~ Division of Juvenile Justice will be reported to the Juvenile Parole Board at a parole calendar within sixty (60) days of such detention.

(2) Revocation process ~~Time~~time limits for ~~hearings~~ for parolees being detained out of state will be suspended until the date the parolee is returned to California.

Note: Authority cited: Sections ~~1721, 1722 and~~ 1767.3, and 1767.6 Welfare and Institutions Code. Reference: Sections 1719, 1766, and 1767.35 Welfare and Institutions Code.

#### **§ 4979. Right to Legal Counsel.**

~~A parolee who is to appear before the Board for a probable cause/detention, violation, or disposition hearing, shall have the right to request the assistance of an attorney. The parolee may waive this right when such waiver is voluntary, and made knowingly, and intelligently. When the parolee is under 14 years of age, such waiver requires parental consent. Legal counsel representing wards at hearings shall be attorneys who have been admitted to the practice of law by the State of California. The granting of counsel is conditional and subject to criteria established by the Board.~~

~~(a) Timely Request for Counsel. A parolee shall make his/her request for counsel when the Board hearing coordinator advises him/her of his/her rights to due process while undergoing violation action. A request for counsel subsequent to that time will be considered only if it is determined that the parolee did not receive the opportunity or was unable to understand and/or exercise his/her right to request counsel.~~

~~(b) Criteria for Counsel. Any one of the criteria enumerated herein may be sufficient in and of itself to grant counsel for a parolee. A parolee who meets the criteria set forth below in subsections (1), (2), or (3) shall be granted counsel. If the criteria for subsection~~

~~(4) are met in conjunction with that described in either subsection (5) or subsection (6) the right to counsel shall be granted. The criteria are:~~

~~(1) The parolee is under 14 years of age.~~

~~(2) The parolee is incapable of speaking for himself/herself by virtue of a severe mental disorder or other grave mental disability.~~

~~(3) Confidential testimony has been taken or will be taken at the hearing.~~

~~(4) The parolee is incapable of speaking for himself/herself by virtue of:~~

~~(A) The complexity of the issues to be considered at the hearing.~~

~~(B) Personal limitations based on the parolee's age, education, intelligence, ability to read and speak English and verbal ability.~~

~~(5) The parolee makes a colorable denial of the alleged violation of parole. Colorable is defined as seemingly valid or genuine, plausible, or having an appearance of being true or right. It is not necessary for the parolee to convince the Youthful Offender Parole Board he/she did not commit the violation. All that is required is a minimal establishment of a possibility that the denial is genuine.~~

~~(6) There are substantial mitigating circumstances in connection with the alleged violations of parole. The reasons which justify or mitigate the alleged violation must be plausible and of real worth, not imaginary or illusive. The circumstances must also be such that revocation of parole would be inappropriate or be so complex as to be difficult for a parolee to present at a hearing.~~

~~(c) Determination of Need for Counsel. The Board has final responsibility for determining the need for counsel for a parolee at a hearing.~~

~~(1) When counsel has previously been denied and the hearing officer determines the ward needs counsel, he/she shall set forth on a Board order his/her reason.~~

~~(2) When counsel is granted the parolee may pay for an attorney of his/her own choosing, except that when a parolee is unable because of indigency to retain his/her own attorney, the Youth Authority will provide counsel.~~

The Juvenile Parole Board shall appoint counsel to represent all ~~Juvenile P~~parolees and ~~P~~parole ~~v~~violators in the revocation and revocation extension processes.

(a) Appointment of Attorneys

(1) For ~~R~~evocation proceedings, the Division of Juvenile Parole Operations (~~DJPO~~) shall notify a ~~Juvenile P~~parolee's counsel of record or public defender, who represented him/her for the committing court offense, of the imposition of a parole hold within four (4) business days after the hold.

(2) An attorney will be appointed to represent a parolee/parole violator:

(A) On or before the eighth (8<sup>th</sup>) business day following the parole hold for detained/in-custody parole ~~R~~evocation proceedings.

(B) On or before the *twenty-first (21<sup>st</sup>)* business day following service of the Notice of Charges, *DJJ 3.274 (REV 04/09)*, for Not-~~I~~n-Custody (~~NIC~~) parole ~~R~~evocation proceedings, or

(C) On or before the eighth (8<sup>th</sup>) business day from the date of notice to the ~~P~~parole ~~V~~violator for ~~R~~evocation ~~E~~extension proceedings.

(3) A parolee/parole violator shall have the right to be represented by counsel during the administrative appeal of the Juvenile Parole Board's revocation or revocation extension decision.

(4) A parolee/parole violator shall have the right to obtain counsel of his or her own choosing at his or her own cost. Such counsel shall have the same rights, except as to compensation, as to counsel appointed by the Juvenile Parole Board.

(b) Attorney Access.

(1) At the time of appointment, counsel shall be provided with all of the evidence in the State's possession on which it intends to rely or which may be exculpatory.

(2) A parolee/parole violator's counsel shall not be denied reasonable access to all of his/her client's files.

(3) At the time of appointment, counsel representing parolees/parole violators who have difficulty in communicating or participating in ~~R~~evocation or ~~R~~evocation ~~E~~extension proceedings because of a disability or effective communication needs, shall be informed of the nature of the difficulty, including but not limited to mental illness, other cognitive or communication impairments, illiteracy, limited-English language proficiency, and the need for a foreign language or sign language interpreter.

(4) Counsel shall be given reasonably adequate time to represent the parolee/parole violator properly at each stage of the proceeding, including administrative appeals.

Note: Authority cited: Section 4722.1766, Welfare and Institutions Code. Reference: Sections 1714, and 1719, and 1767.35, Welfare and Institutions Code.

~~§ 4980. Hearings.~~

~~(a) Probable Cause Hearing. A hearing in which the Juvenile Pparolee appears and at which it is determined whether there is probable cause to believe that the Juvenile Pparolee has violated a condition of parole and, if so, whether the he/she should be detained during the revocation process.~~

~~(b) Expedited Probable Cause Hearing—The JPB shall provide an expedited Probable Cause hearing within ten (10) business days following the parole hold upon a sufficient offer of proof by a parolee's attorney that there is a complete defense to all parole violation charges that are the basis of the parole hold. Such requests may be made by a parolee's attorney at any time. The JPB shall respond to such requests no later than one (1) business day after receiving such request but shall make every effort to respond the same day. If the request is denied, the basis for denial shall be stated in writing.~~

~~(c) Revocation Hearings—A two-phase hearing (evidentiary and disposition) at which it is determined whether the preponderance of the evidence shows that the parolee violated a condition of parole and whether the parolee should be returned to parole supervision or remanded to custody.~~

~~(d) Revocation Extension Probable Cause Hearing—A hearing in which a parole violator appears and it is determined whether there is probable cause to believe that the parole violator committed either Serious In-Custody Misconduct or Willful Program Failure.~~

~~(e) Revocation Extension Hearing—The two phase hearing (evidentiary and disposition) in which a parole violator appears before the JPB, at which it is determined whether the preponderance of the evidence shows that the parole violator committed Willful Program Failure or Serious In Custody Misconduct, and in which a parole violator's revocation period may be extended.~~

~~(f) The Revocation and Revocation Extension Hearing shall be audio recorded and a written record will be made for the proceeding.~~

~~Note: Authority cited: Section 1766, Welfare and Institutions Code. Reference: Sections 1714, 1719, and 1767.35, Welfare and Institutions Code.~~

### **§ 4980.5 Rules for Parole Violation Hearings.**

The Juvenile Parole Board has established the following rules for all hearings relating to parole violation proceedings.

~~(a) When appropriate the Board may conduct more than one type of hearing in the violation series on the same date.~~

~~(b)~~ (a) When a parolee is being held in custody, the ~~Hearings~~ hearings to determine probable cause or violation of parole shall be held within the county or within fifty ~~60~~ 50 miles of where the alleged violation occurred, absent a waiver.

~~(c)~~ (b) The parolee shall be present during the hearing. If the parolee is under 18 years of age, the parents or guardians shall be notified and may attend the hearing. ~~When counsel is granted, he/she may be present at the hearing.~~

~~(d)~~ (c) The hearing officer shall familiarize himself/herself with necessary reports and supporting evidence prior to the hearing. This review will be limited to those materials relevant ~~ative~~ to the type of hearing to be conducted.

~~(e)~~ (d) The parolee may challenge any allegation of a violation brought exclusively by the Youth Authority Division of Juvenile Justice but cannot challenge a court ~~finding of probable cause or a violation of law.~~ conviction.

~~(f)~~ (e) The hearing officer shall limit the scope of the hearing to issues relevant to the particular hearing which is being held.

~~(g)~~ (f) During ~~For~~ Probable Cause Hearings, ~~The~~ the hearing officer may assume staff reports are true unless the accuracy of the information is successfully challenged at the hearing.

~~(1) Witnesses shall be encouraged to attend the hearing to provide direct testimony even though not requested for cross examination purposes.~~

~~(2) When possible, parolee shall be advised of witnesses' attendance and scope of witnesses' testimony.~~

~~(h) The hearing officer shall use discretion in screening witnesses. Any witness whose testimony would not be relative to the issues at hand may be excluded. The hearing officer will document the reasons why a witness is excluded.~~

~~(i) The hearing officer shall determine the order of presentation of evidence and the order in which witnesses are called.~~

~~(j) A witness may be excused from appearing at the hearing if the hearing officer has good cause to believe such witness would be subject to risk of harm if he/she testified at the hearing. The hearing officer in such an instance shall take testimony from the witness without the presence of the parolee. The parolee shall be informed of the substance of the evidence received to the extent that the identity of the witness is protected. The summary of the hearing shall indicate that confidential testimony was relied upon in reaching the decision.~~

~~(k) The rules of evidence applicable in a court proceeding do not apply to parole violation proceedings. Hearsay evidence, illegally seized contraband or information obtained without proper warning to the parolee with respect to self incrimination may be considered by the hearing officer. Prior delinquent or criminal conduct may be introduced into evidence when the evidence is relevant to prove some facts, such as motive, opportunity, intent, preparation, plan, knowledge, or identity or absence of mistake or accident, or, where the evidence affects the credibility of a witness. The hearing officer shall, however, weigh the reliability of any evidence presented. Direct and verified evidence shall be given the greatest weight in deciding the issues in a particular case.~~

~~(l) Any person, including the parolee, who disrupts a hearing may be excluded from further participation by the hearing officer.~~

~~(m) The hearing officer is responsible for assuring that the parolee has had a full opportunity to present all relevant information in his/her own behalf.~~

~~(n) The hearing officer shall record findings of specific violations with respect to the allegations shown in the written notice. He/she shall record all orders made at the hearing.~~

~~(h) Parolees shall have the right to subpoena witnesses to appear at a Revocation Hearing. The parolee shall be advised of the witnesses that the Division of Juvenile Justice intends to subpoena. If a hearing officer determines based on objective factors that a witness is fearful and that face-to-face confrontation would result in significant emotional distress to the witness, that witness may testify outside of the presence of the parolee. The hearing officer shall allow the parolee's counsel to cross examine the witness and a reasonable amount of time to consult with the parolee about the witness's testimony.~~

~~(h) Evidence or documents not provided to the Juvenile Pparolee's counsel at least forty-eight (48) hours prior to the hearing shall not be admitted or considered in the hearing unless the Division of Juvenile Justice can show good cause for the delay.~~

~~(i) The use of hearsay evidence in a Revocation Hearing shall be limited by the Juvenile Pparolee's confrontation rights in the manner set forth in controlling legal authority.~~

~~(i) Any person, including the parolee, who disrupts a hearing, may be excluded from further participation by the hearing officer.~~

~~(k) The hearing officer is responsible for assuring that the parolee has had a full opportunity to present all relevant information in his/her own behalf.~~

~~(l) The hearing officer shall record findings of specific violations with respect to the charges shown in the notice of charges. He/she shall record all orders made at the hearing.~~



~~(#m) At every~~ All Revocation/ and Extension Hearings, shall be audio recorded and a written record will be made for the proceeding. ~~#~~ The parolee shall be informed of his/her right to receive an audible copy of the audio recording of the hearing. Division of Juvenile Justice shall take necessary steps to ensure that such proceedings are appropriately recorded. Probable Cause Hearings/Optional Waiver Reviews may not be recorded.

Note: Authority cited: Section 47221766, Welfare and Institutions Code. Reference: Sections 4721 and 1723, Welfare and Institutions Code.

#### **§ 4981. Probable Cause/Detention Hearing.**

~~A parolee undergoing court action has a right to a hearing before the Board when he has been detained by Youth Authority action. This hearing shall first be for the purpose of determining whether there is probable cause to believe he has substantially violated a law and thus a condition of parole. Probable cause requires a reasonable belief, based on reliable evidence, that a person has violated a law. The evidence must substantiate more than mere suspicion but need not amount to proof of guilt. Where probable cause is established the Board then determines whether or not detention should be continued.~~

~~(a) A parolee who is in custody while undergoing parole revocation action~~ proceedings initiated by Division of Juvenile Justice has a right to a Probable Cause Hearing before the Juvenile Parole Board. This hearing shall be conducted no later than thirteen (13) business days after imposition of a Division of Juvenile Justice parole hold. The Probable Cause Hearing has two (2) purposes:

(1) To determine whether there is probable cause to believe the parolee has violated a law or condition of parole. Probable cause requires facts that would lead a person of ordinary caution and prudence to conscientiously entertain a strong suspicion that the alleged charge is true.

(2) To determine, where probable cause is established the Juvenile Parole Board, whether the parolee should continue to be detained pending resolution of the alleged charges.

~~(a) Probable cause for a law violation may be established in the case of a parolee by:~~

~~(1) A finding by a court that a crime was committed and that there is probable cause to believe the parolee committed the crime. In this instance the hearing officer shall establish probable cause by determining the parolee appearing before him/her is the same subject who appeared before the court.~~

~~(2) A finding by the hearing officer that a violation of law occurred and that there is probable cause to believe the parolee was the person who committed the crime.~~

~~(b) A hearing officer may order a parolee detained following the establishment of probable cause provided the parolee meets a the criterion for detention as set forth in Section 4978.~~

~~(ed) When a hearing officer finds probable cause but orders that a parolee not be detained pending resolution of the charges, the Youth Authority Division of Juvenile Justice detention order shall be removed within 24 hours~~ parole hold must be withdrawn and assuming there are no other holds, the parolee released as soon as possible, but no later than three (3) business days from the date of the hearing. If released, the parolee will

have a Not-In-Custody Revocation Hearing. Regardless of whether the parolee is being held on other holds, timeframes for Not-In-Custody Revocation Hearings will apply.

~~(d) A parolee may waive a timely probable cause/detention hearing provided such waiver is voluntary, and made knowingly and intelligently. A waiver of such a hearing shall in general meet the same test as a waiver of the right to request legal counsel. A waiver signed by the parolee shall be presented to the Board along with appropriate violation and detention reports prepared by parole staff. The Board may on a non-appearance basis, establish probable cause and order detention when appropriate criteria are met. A waiver of a timely hearing shall not be considered an admission of the truth of the charges pending in court.~~

(e) When a hearing officer dismisses the charges or orders that the parolee be continued on parole, the Division ~~of~~ *of Juvenile Justice parole* hold must be withdrawn and, assuming there are no other holds, the parolee released as soon as possible, but no later than three (3) business days from the date of the hearing.

~~(e) When at a scheduled probable cause hearing it is discovered court action has been completed the hearing officer may conduct a disposition hearing provided:~~

~~(1) Parole staff is recommending to continue the ward on parole.~~

~~(2) The parolee waives notice of the disposition hearing and service of a written disposition report.~~

Note: Authority cited: Section ~~1722~~1719, Welfare and Institutions Code. Reference: Sections~~171~~, 1719, ~~1721~~ and 1723, and 1766, Welfare and Institutions Code.

## **§ 4982. Violation of Parole.**

~~The Board shall establish that there has been a substantial violation of a condition of parole before a parolee may be deprived of his liberty through revocation of parole.~~

~~(a) Kinds of Violations of Parole.~~

~~(1) Law violation. A court finding of a violation of law establishes a violation of a condition of parole.~~

~~(2) Technical violation. This is a violation of a general or special condition of parole as imposed by the Board. It takes specific Board action to establish a technical violation of parole except when the parolee has made a voluntary admission of such violation.~~

~~(b) Reporting Possible Parole Violations to the Board. Parole staff shall report to the Board when:~~

~~(1) A court has established that a parolee has committed a substantial law violation.~~

~~(2) Parole staff believes a parolee has committed a substantial violation of a general or special condition of parole.~~

~~(A) Parole staff may allege a technical violation of parole when there has been a dismissal or acquittal by court action. This may occur when parole staff believes the behavior charged in the court action represented a substantial violation of parole and it is believed there is sufficient proof to establish the truth of such a violation.~~



~~(c) Options Available to a Parolee: A parolee charged by parole staff with a violation of parole may:~~

~~(1) Waive his right to a timely hearing on alleged technical violations of parole when he has court action pending on a law violation. However, a violation hearing shall be conducted within 72 days of the waiver when court action has not been completed. Any waiver of a timely hearing shall not be considered an admission of the truth of the alleged violation.~~

~~(2) Sign an admission as to the truth of any alleged violation of parole.~~

~~(3) Demand a hearing before the Board to determine the truth of any alleged violation of parole.~~

~~(d) Standard of Proof. A preponderance standard of proof shall be applied by the Board to the fact finding process of determining whether a parolee has violated a condition of parole. This means a hearing officer shall decide whether it is more likely than not that a parolee did violate a condition of parole as alleged.~~

~~(e) Non-substantial Violations of Parole. Parole staff shall report a non-substantial violation of law established by a court to the Board within 15 days of a completed court action. A parole report briefly describing the parolee's behavior and giving the court disposition is to be presented to the Board at a parole calendar.~~

~~(f) Minor Violations of Law and Citations. Vehicle Code traffic violations and citations for possession of marijuana need not be reported to the Board, including when a warrant is issued, except for:~~

~~(1) Hit and run.~~

~~(2) Injury to person or property.~~

~~(3) Driving under the influence of alcohol or drugs.~~

~~(4) Two or more citations for possession of marijuana within a six-month period.~~

~~(5) Two or more traffic warrants within a six-month period.~~

(a) When a parolee is alleged to have violated a condition of parole, he/she is placed into the violation process. There are two (2) categories of parole violations:

(1) Law ~~V~~iolation. A court finding of a violation of law establishes a violation of a condition of parole.

(2) Technical ~~V~~iolation. ~~This is a~~ A violation of a general or special condition of parole.

(b) The Division of Juvenile Parole Operations (~~DJPO~~) violation process has three (3) levels:

(1) Level 1: ~~M~~inor violations of parole for which detention may not be warranted.

(2) Level 2: ~~S~~electd minor law violations, moderate technical violations, or repetitive Level 1 behavior for which detention may not be warranted.

(3) Level 3: Any behavior that the Division of Juvenile Parole Operations believes represents a risk or threat to public safety. This includes serious technical and/or law violations, and/or any Level 1 or Level 2 behavior that is exacerbated by repetition, severity

~~and/or relation to the youth's original commitment offense, which the parole agent and unit supervisor deem serious or reportable.~~

(c) Level 1 and Level 2 behavior may be resolved at the field parole unit level through the imposition of a Corrective Action Plan ~~(CAP)~~, DJJ 3.221 (REV 04/09). Level 3 behavior shall be reported to the Juvenile Parole Board. However, the Juvenile Parole Board must first establish that there has been a violation of a condition of parole before a ~~parolee~~ may be deprived of his liberty through revocation of parole.

(d) A preponderance of the evidence standard of proof shall be applied by the Juvenile Parole Board during a Revocation Hearing to determine whether a parolee has violated a condition of parole. This means a hearing officer shall decide whether it is more likely than not that a parolee did violate a condition of parole as alleged.

Note: Authority cited: Section ~~4722~~1766, Welfare and Institutions Code. Reference: Sections~~1719, 1721, 1723, 1766~~ and 1767.3, Welfare and Institutions Code.

### **§ 4983. Disposition of a Parole Violation.**

~~The Board shall make a disposition in all cases where a substantial violation of parole by a parolee has been established.~~

#### ~~(a) Time Limits and Board Actions.~~

~~1) Disposition Review. This review is conducted by the Board on a non-appearance basis at a parole calendar. It shall be held at the earliest opportunity following establishment of a parole violation when the parolee is not in custody or when the Youth Authority detention order has not been withdrawn, and parole staff is recommending that the ward be continued on parole. At this review the Board may order that the ward be continued on parole or order the scheduling of a disposition hearing. If the hearing officer believes the parolee meets the criteria for detention, he may order him detained pending a disposition hearing.~~

~~(2) Disposition Hearing. A disposition hearing shall be held for a parolee when the parole agent is recommending revocation of parole, or when the Board at a review orders a hearing. A disposition hearing may not be waived by a parolee.~~

~~(A) A disposition hearing shall be held within 30 days of:~~

- ~~1. The date of final court action on all matters before the court.~~
- ~~2. The date the Youth Authority established a technical violation of parole if no court action is pending.~~

~~(B) At a disposition hearing the hearing officer may:~~

- ~~1. Continue the ward on parole when he believes it is in the best interests of the community and to the advantage of the parolee.~~
- ~~2. When a parolee is in detention and continued on parole he shall be released from the Youth Authority detainer within 24 hours. If a new placement plan is required the hearing officer shall order the parolee detained temporarily and to be released when an acceptable plan is developed. In making such an order the hearing officer shall set a specific time the case is to be returned to Board if release is not effected.~~

~~3. Revoke the parole of a parolee when he determines the parolee is in need of institutional training and treatment.~~

~~(b) Revocation of Parole.~~

~~(1) In ordering revocation of parole at a disposition hearing the hearing officer shall:~~

~~(A) Establish a parole consideration date or order a new clinical study for the parolee.~~

~~(B) Designate the place where the new institutional stay will begin.~~

~~(2) When a parolee has been committed to the Youth Authority by a court as a result of an offense committed while on parole, the parole status of such a parolee shall be revoked at the initial hearing.~~

(a) The *Juvenile Parole* Board shall make a written order documenting its findings and imposing a disposition in all parole ~~Revocation Hearings~~ proceedings. A copy of this written board order shall be provided to the parolee and to his/her attorney at the conclusion of the hearing.

(b) The dispositions that the *Juvenile Parole* Board may consider are:

(1) Dismissal of the charges is warranted

(2) Continuing the parolee on parole ~~under specific and extraordinary circumstances.~~

(3) Revoking parole and imposing a revocation term based upon the *Parole Revocation Assessment Matrix, REV 11/2008 or the Revocation Extension M#atrix, REV 12/2008*, established by the *Juvenile Parole* Board. Upon revocation, the hearing officer shall establish a Revocation Release Date ~~(RRD)~~.

(4) Granting the parolee's request for an Optional Waiver

Note: Authority cited: Section ~~4722~~1719, Welfare and Institutions Code. Reference: Sections 1714, 1719, ~~1721~~, 1723 and 1766, Welfare and Institutions Code.

**§ 4983.5 Optional Waiver.**

(a) A parolee, who is in custody and undergoing criminal prosecution for the same behavior that is grounds for an alleged violation, may conditionally waive a Revocation or Revocation Extension Hearing while still retaining the option to request a hearing at a later date. Upon receipt of a signed request by the parolee in which he/she elects to optionally waive his/her Revocation or Revocation Extension Hearing, his/her parole will be revoked or extended for the time assessed by the *Juvenile Parole* Board based upon the established *Parole Revocation Assessment Matrix, REV 11/2008 or the Revocation Extension M#atrix, REV 12/2008*.

(b) A parolee may later request a Revocation or Revocation Extension Hearing prior to the end of the optional waiver period. He/she is entitled to no more than one activation of an optional waiver. A hearing request must be postmarked and received by the Juvenile Parole Board ~~within fifteen (15) business days following sentencing or final disposition at the trial court level in the criminal proceedings, and~~ no later than 35 days before expiration of the optional waiver revocation period ordered by the *Juvenile Parole* Board.

(c) If a parolee is still undergoing criminal prosecution when the optional waiver revocation period ends, the *Division of Juvenile Justice* parole hold will be dropped.

However, the parolee may remain in local custody pending the outcome of the criminal prosecution.

Note: Authority cited: Section 1719, Welfare and Institutions Code. Reference: Sections 1714, 1723 and 1766, Welfare and Institutions Code.